United Nations A/57/762–S/2003/333

General Assembly
Security Council

Distr.: General
18 March 2003

Original: English

General Assembly
Fifty-seventh session
Agenda item 37

Security Council
Fifty-eighth year

The situation in Afghanistan and its implications for international peace and security

Report of the Secretary-General

Summary

The present report describes the ongoing implementation of the Bonn Agreement by the Afghan Transitional Administration, supported by the United Nations Assistance Mission to Afghanistan (UNAMA). The report emphasizes the importance of tangible progress in reconstruction efforts and calls for sustained international commitment to Afghanistan.

The report notes progress made on the consolidation of government authority by the Afghan Transitional Administration, in particular through the adoption of a national development budget, the successful completion of a currency reform operation, and the ongoing implementation of national programmes to provide clear, tangible economic benefits to the Afghan population.

The report also describes key political processes to further the transition towards a multi-ethnic, gender-sensitive, and fully representative Afghan Government. These include the Afghan-led constitutional process, by which a draft constitution is to be prepared by March 2003, public consultations are to be held in April and May 2003, and a Constitutional Loya Jirga is to be held in October 2003. Another key process is the preparation of national elections to be held in June 2004. The Electoral Assistance Division of the Department of Political Affairs of the Secretariat is currently working with UNAMA to define the modalities for assistance, as per a request to the Secretary-General from President Hamid Karzai.

According to the report, security remains the most serious challenge facing the peace process in Afghanistan. Re-establishment of the rule of law, elimination of human rights abuses, reconstruction and political transformation are all impeded by the uncertain security situation. The report notes, however, some progress in security sector reform, namely, the rebuilding of a national army and police, the rehabilitation of the justice sector, the implementation of a disarmament, demobilization and

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reintegration programme and the curbing of the production and trafficking of illegal narcotics. Despite ongoing security concerns, the report notes progress made in the fields of human rights and gender issues as well.

Relief, recovery and reconstruction are also addressed, with a focus on the generally successful winter response programme, challenges posed by the return of refugees and internally displaced persons, as well as successful immunization and education programmes.

As the submission of the report coincides with the proposed renewal of the UNAMA mandate, the report contains proposed adjustments of the UNAMA structure. The most important of these concern small additions to the military and police adviser's units, and the establishment of an electoral section headed by a senior expert and supported by an appropriately sized team.

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1401 (2002) of 28 March 2002, and General Assembly resolutions 57/113 A and B of 6 December 2002. It covers the period since the previous report, dated 21 October 2002 (A/57/487-S/2002/1173). During this period, the Security Council also received monthly briefings on the situation in Afghanistan (see S/PV.4638, S/PV.4664, S/PV.4699 and S/PV.4711).

II. Implementation of the Bonn Agreement

A. Consolidation of government authority

2. During the reporting period, the Afghan Transitional Administration continued to build its authority throughout the country and to implement national policies. A key policy instrument has been the current fiscal year (2003) national budget. The budget sets out a number of national programmes, which should provide the Government with mechanisms to deliver tangible benefits equitably to citizens across the country. The Government is now paying salaries to civil servants in nearly all provinces, and has plans to increase the flow of funds to provincial governments to cover operational costs. There has been token improvement in the remittance of revenue to the centre, but this remains one of the major challenges facing the central authorities. Building a coherent administrative system that responds to the capital will require, among other things, the continued flow of resources, and close coordination and agreement between all actors at the provincial, national and international levels, regarding their relative roles with respect to the central administration, as well as increased capacity of central State institutions generally.

3. During the period under review, the Government made important advances in the development of its national policy-making systems through the inter-ministerial and cabinet budget-making exercise. Since the budget provides a key instrument to help define policy and frame national priorities, the United Nations Assistance Mission to Afghanistan (UNAMA) and United Nations agencies have agreed to prioritize still further their programmes and projects within the budget process, building upon the consultative process undertaken with the government in defining the Transitional Assistance Programme for Afghanistan (see A/57/487-S/2002/1173, para. 37), which was launched at Oslo in December 2002. New trust funds and other mechanisms may be developed to channel multilateral funding in support of the State-building process.

4. As part of the national development budget process, ministries have prepared their respective sector budget proposals in conjunction with the newly formed consultative groups. The proposals were the subject of intensive cabinet review in early March 2003. The Government then presented its operating budget and the national development budget at the Afghanistan Development Forum held at Kabul on 13 and 14 March and at the Afghanistan High-Level Strategic Forum at Brussels on 17 March.

5. The Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions (the Bonn Agreement, see

S/2001/1154, annex) calls for a national population census, which will serve as an important basis for a multitude of development and governance activities. Preparations for the census are now well under way under the leadership of the National Statistics Office, supported by the United Nations Population Fund (UNFPA). The first phase, involving surveys of household and village facilities, has begun in Kunduz and will be progressively extended to other provinces. The aim is to complete the first phase by the end of the year.

6. In early January 2003, the Government of Afghanistan completed its currency exchange operations, which began in October 2002 (see A/57/487-S/2002/1173, para. 7). The Government deserves credit for the success of this ambitious undertaking, as the new currency is providing an important basis for improving economic stability and implementing financial and economic reforms.

7. One area in which it is hoped that progress will be made is in the restoration of the administrative system governing civil service practice. Contrary to initial assumptions, the unitary system of administration established under the 1964 Constitution has survived years of turmoil and remains, to an extent, respected by civil servants across the country.

8. The consolidation of the Afghan peace process will require progress in reconstruction. The economic benefits of peace must become a real part of Afghans' lives. The Afghanistan Reconstruction Trust Fund, which funds government budgetary shortfalls and development activities, received $212 million in the fiscal year ending in March 2003. The value of approved projects is approximately $200 million. The Government has encouraged donors to support social sector programmes through the Trust Fund mechanism, and other similar trust fund mechanisms which are in the process of being established.

9. Three key nationwide programmes should provide clear and tangible benefits to Afghans at the local level: (a) the National Emergency Employment Programme, financed by the Afghanistan Reconstruction Trust Fund; (b) the National Solidarity Programme, financed by the World Bank; and (c) the National Area Based Programme, supported by the United Nations Development Programme (UNDP). The National Emergency Employment Programme is designed to provide labour-intensive employment to vulnerable groups across the country. The Ministry of Rural Rehabilitation and Development, along with the United Nations Office for Project Services (UNOPS) as its managing agent, is using non-governmental organizations to implement projects in 16 provinces, with work already begun in 8 provinces. The Ministry of Public Works is also working with UNOPS to oversee contracts for road repairs with small private sector firms. Following the urban model of the UNDP Recovery and Employment Afghanistan Programme, this component is expected to create more than 2.5 million person-days of paid labour and will be almost fully disbursed over the next six months.

10. The National Solidarity Programme, also led by the Ministry of Rural Rehabilitation and Development, will facilitate community planning and transfer grants to the local level for village infrastructure and other investments across the country (approximately $20,000 per village per year). The goal is to reach from 3,000 to 5,000 communities in 2003/04, and another 5,000 to 6,000 communities in 2004/05 (this is nearly half the number of communities in the country). The Ministry's National Area Based Programme aims at strengthening capacity at the

provincial and district levels, in support of the other two programmes, while simultaneously delivering assistance through pilot programmes in vulnerable areas.

11. The military coalition led by the United States of America has deployed provincial reconstruction teams to Kunduz, Gardez and Bamyan, and has indicated its intention to deploy additional teams to Mazar-i-Sharif, Herat, Jalalabad and Kandahar. According to the coalition, the teams will support reconstruction activities and help extend central government authority in the provinces. The teams might in the future provide a basis for monitoring and supporting security sector reform in the provinces. It is hoped that the presence of the teams will, as a secondary effect, enhance local security in their areas of operation.

12. The Minister of Interior chairs a government coordination committee on the deployments of the provincial reconstruction teams, and UNAMA is assisting in facilitating clear lines of communication between the teams and the United Nations and the non-governmental organization assistance community, in part to allay concerns regarding potential confusion between the roles of military and civilian actors. It is the view of UNAMA that these concerns might be mitigated if the teams maintain a clear distinction between their programmes and those of the humanitarian and development actors by directing their assistance to different needs, such as roads, power generation and reconstruction of local government buildings and customs posts.

B. Political developments

Constitutional process

13. The Bonn Agreement calls for the drafting and endorsement of a new Afghan constitution by the end of 2003. This process, if successfully concluded, will help provide the political basis to cement the peace process. The Drafting Committee of the constitutional commission (see A/57/487-S/2002/1173, para. 28) was formally inaugurated by the former King, Zaher Shah, on 3 November 2002, and it has since almost completed a preliminary draft of the constitution. The nine-member committee includes two women judges and legal scholars and jurists drawn from across the major ethnic groups and regions.

14. A larger constitutional commission of some 30 members is to be appointed and will begin meetings in March 2003. President Hamid Karzai is expected to issue a decree on the process of the development of the constitution and the role of the constitutional commission. In April and May public consultations will be held across Afghanistan to gather views from a broad cross-section of the population. Drawing on these consultations, the commission will produce a final draft over the summer, which will be submitted for adoption by a Constitutional Loya Jirga in October. UNAMA will require the expertise of one constitutional specialist to support its work in this complex endeavour. International experts on constitutional processes and law are also being made available by donors for varying stages of the process. It should be stressed, however, that the constitutional process will remain Afghan-led.

Electoral process

15. Another key component of the Bonn process is the holding of elections by June 2004. This task is complicated by the absence in Afghanistan of electoral institutions; there is neither a national electoral body nor an electoral registration system, and there are no laws regulating the conduct of elections or the functioning of political parties. On 15 February 2003, President Karzai sent a letter to me requesting that "UNAMA be entrusted with the mission to help prepare and organize the electoral process and to coordinate international electoral assistance". I have replied positively, and to that end, UNAMA will work with the Electoral Assistance Division of the Department of Political Affairs, to define the appropriate modalities for electoral assistance.

16. For the timetable outlined in the Bonn Agreement to be achieved, the Government must urgently appoint a national electoral body to oversee the organization of the elections. UNAMA, through a team of experienced advisers, would support this electoral body and help build its capacity to register voters, undertake civic education and conduct the elections in accordance with the Bonn Agreement. The UNAMA electoral team would also coordinate international assistance to, and carry out liaison with, the national electoral body.

17. Since the draft constitution is scheduled to be completed in late 2003, it may not be possible to base the legal framework for the elections on the new constitution and still have enough time to conduct elections by June 2004. Therefore specific and limited electoral and political parties' laws may have to be promulgated for the purposes of the 2004 elections only. Laws for subsequent elections would draw upon the new constitution.

18. Operations involving voter identification and civic education are complex and costly. The Electoral Assistance Division and UNAMA are in the process of finalizing an initial budget estimate of the requirements for 2003. The 2004 elections would be an important step in the implementation of the Bonn process. The organization and implementation of the elections will be a formidable challenge, made even more difficult by the fragile security situation and by the risk, inherent in elections anywhere, that competition between candidates increases tensions and divisions within societies.

International relations

19. On 22 December 2002, the Governments of Afghanistan and the six neighbouring States signed the Kabul Declaration on Good Neighbourly Relations (see S/2002/1416, annex). The signatories reaffirmed their commitment to constructive and supportive bilateral relationships based on the principles of territorial integrity, mutual respect, and non-interference in each others affairs. The seven States also expressed their determination to defeat terrorism, extremism and drug trafficking. The Security Council immediately welcomed and supported the initiative in its resolution 1453 (2002) of 24 December 2002. Since the signing of the Declaration, Afghan officials have undertaken visits to neighbouring capitals to discuss cooperation on a range of issues, including diplomatic and economic relations and refugees. President Karzai has visited each of these capitals at least once.

C. Security issues

Overall security situation

20. Security remains the most serious challenge facing the peace process in Afghanistan. Security must be improved to allow the re-establishment of the rule of law, ensure the protection of human rights, promote the reconstruction effort and facilitate the success of the complex political processes, including the development of the new constitution and the holding of free and fair elections. Afghans in many parts of the country remain unprotected by legitimate State security structures. Criminal activity by armed groups has of late been particularly evident in the north, east and south, and in many areas confrontation between local commanders continues to contribute to instability.

21. During the reporting period, rivalries between factional leaders worsened in the west when the forces of Herat's Governor, Ismael Khan, clashed with those of a local commander, Amanullah Khan, in Shindand in late 2002. In January 2003, fighting broke out in the province of Badghis between forces loyal to Ismael Khan and the local Governor, Gul Mohammad.

22. In Kandahar, rivalries over local power and tribal dominance came to a head when forces belonging to the Governor, Gul Agha, from the Barakzay tribe, tried to disarm police under the command of General Akram, from the Alokozai tribe. The dispute over responsibility for law and order in the city was resolved after the intervention of tribal leaders.

23. Sporadic acts of terror continue to occur all too frequently. The worst of these in recent months was on 31 January, when a bus drove over an improvised mine near Kandahar, killing 12 passengers. In late December 2002, in Kabul, an explosive device was thrown into a car carrying two United States plain-clothed soldiers and their interpreter, injuring them. In a separate incident, also in Kabul, two Afghans were killed and two foreign aid workers were injured when a grenade was thrown into a crowd of people outside an International Security Assistance Force (ISAF) base. An ISAF national interpreter was killed on 7 March while on patrol, when an improvised, remote-controlled explosive device detonated as his vehicle passed.

24. Reports from several sources in the first months of 2003 point to increased activity by elements hostile to the Government and to the international community in Afghanistan. There were signs that remnant Taliban groups and factions loyal to Gulbuddin Hikmatyar were trying to reorganize in the south-eastern and eastern border areas. There has also been an increase in the number of attacks against the personnel and assets of international and non-governmental organizations, particularly in the border provinces of Nangahar, Khost, Kunar, Paktya, Paktika, Kandahar and Helmand. In December 2002, two grenades were thrown into the compound of the Gardez office of UNAMA, and in February 2003 an explosive device detonated outside the office in Kandahar of the Office of the United Nations High Commissioner for Refugees (UNHCR) and another was thrown into the office compound of the International Organization of Migration (IOM) in Kunduz. Over the reporting period there has also been a series of unexplained explosions in Jalalabad that resulted in no casualties. Attacks against coalition forces continued to occur, resulting in numerous injuries and one fatality.

25. UNAMA and United Nations agencies are taking precautionary measures to ensure the security of staff, such as limiting non-essential movements around the country. Although travel or activities have been suspended for two or three days in specific cases and places, security has not yet deteriorated to a level that would require a cessation of local operations. Security assessments will be made on an area-by-area basis, and should operations in any one area have to be curtailed, those in other areas of Afghanistan should not necessarily be affected.

Security sector reform

26. The lack of security can only be resolved, ultimately, by loyal, unified, government forces that are able to maintain the peace and provide for law and order within an accountable legal framework. Improving security in Afghanistan will therefore require coordinated progress on a number of interrelated fronts: building the national army, police and border guard; disarmament, demobilization and reintegration of existing factional forces; reform of the justice sector; and meeting the rising threat posed by the cultivation and trafficking of drugs. The Ministries of Defence and Interior, as well as the large and intrusive internal intelligence structures, must be reformed so that they are perceived across Afghanistan as truly national in character. The Afghan leadership is working with the security sector "lead nations" to define policy approaches, garner financial and technical support, and implement programmes. In my previous report (A/57/487-S/2002/1173, paras. 11-17), I outlined a number of steps to reform State security structures. Some of these have since been achieved.

27. On 1 December 2002, President Karzai signed a decree that provides the basis for the new Afghan National Army (ANA), the disarmament, demobilization and reintegration of all factional forces and the reform of the Ministry of Defence. On 12 January 2003, the Defence Commission began implementing the decree by creating four commissions to coordinate the related processes of disarmament, demobilization and reintegration and the building of the national army: a demobilization and reintegration commission to assist combatants who wish to leave existing military formations and enter civilian life; a disarmament commission to draw down weapons held by groups outside the national army; and two commissions (on the recruitment of officers and soldiers, respectively) to ensure selection of army personnel on the basis of merit, ethnic balance and regional representation.

28. Also in accordance with the 1 December decree, an advisory committee was created on 18 February 2003, bringing together key Afghan ministers for security sector reform, representatives of the lead nations and UNAMA to promote the ANA and disarmament, demobilization and reintegration processes. A step towards the reform of the Ministry of Defence was taken on 20 February when 15 positions, including that of a deputy minister, were created or changed to create a better ethnic balance among the senior personnel. This effort should be continued to assure the country that ANA itself will be a truly national army, implementing defence policies that respond to national, not factional, imperatives.

Afghan National Army

29. The reorganization and training of ANA troops by the United States and France continues at the Kabul Military Training Centre. Six ANA battalions have so far been created with newly trained troops. Activation of the first two brigade

headquarters of the Central Corps of ANA is expected shortly. Some ANA units have been deployed on limited operations outside Kabul where they have conducted patrols and supported local disarmament efforts. These deployments, which have been generally well received by local populations, have demonstrated that the new army is developing as a professional and disciplined force.

Disarmament, demobilization and reintegration of ex-combatants

30. The creation of an effective national army and police depends on the successful disarmament, demobilization and reintegration into civilian life of members of non-official military formations. On 22 February, the Government of Japan, as lead nation for disarmament, demobilization and reintegration, hosted a conference at Tokyo to mobilize international support for the process. Contributions and pledges totalling $50.7 million were made. Japan pledged $35 million to UNDP for disarmament, demobilization and reintegration, plus some contributions in kind. At the conference, President Karzai stressed that disarmament, demobilization and reintegration should be impartial, that the programme would be implemented through a phased approach, and that it should be completed within one year. On the ground, the programme will be implemented through the UNAMA/UNDP Afghanistan's New Beginnings Programme, which will provide assistance and support for the reintegration of forces not destined for army or police training.

Police and prisons

31. As local militias are dismantled, a reformed national police force will have to provide the foundation of law and order in Afghanistan. The Minister of Interior, Ali Ahmad Jalali, appointed on 28 January 2003, has displayed a promising readiness to reform the police. Discussions are under way on the reorganization of the Ministry, and efforts are being intensified to establish the Border Police, formerly under the Ministry of Defence, as a distinct entity under the Ministry of Interior. Discussions are also under way among international partners to identify a lead nation to help the Afghan authorities build up the Border Police.

32. The German-led police training programme is proceeding well. A new group of 500-600 trainee officers have been recruited and their training will begin in March 2003. The United States is also prepared to supplement Germany's efforts with a programme to provide basic training for thousands of police officers over the coming months. The Interior Minister is working on a draft presidential decree that would set out the course of police reform, much as the 1 December decree did for the army.

33. The Government has taken important steps to ensure the accountability of its police force. President Karzai established an independent commission to investigate the violent police response to student demonstrations at Kabul University in November 2002. It concluded that the police had been responsible for the use of excessive force, and that the miserable living conditions at the students dormitory, which had apparently triggered the demonstrations, were partly the result of corruption. Several government officials, including some at senior levels, were consequently arrested. A special human rights department was also created in the Ministry of Interior. It is expected that the Afghan Independent Human Rights Commission and UNAMA will cooperate through this department to implement a programme of human rights education for the police.

34. Authority over prisons will be transferred from the Ministry of Interior to the Ministry of Justice. There is at present no general prison in the capital, and all the prisoners regardless of their status are held in the Kabul detention centre, an overcrowded and dilapidated facility adjacent to the Kabul police headquarters. The Afghan prison authorities have started reconstruction of the Pul-i-Charkhi prison outside Kabul, but sufficient funds for this reconstruction and the rehabilitation of the prisons sector have not been provided.

Counter narcotics

35. Poppy cultivation and the production and trafficking in drugs remain major national and international concerns. Afghanistan, once again, is expected to be the largest producer of opium in 2003. Crop eradication, based on a presidential decree, is reportedly ongoing in many parts of the country, though verification remains problematic. A project supported by the Office on Drugs and Crime will help the Government improve its verification capacity. The success of the eradication campaign will depend upon credible police enforcement and the availability of alternative sources of livelihoods to farmers. The United Kingdom of Great Britain and Northern Ireland, as lead nation in this sector, is working closely with a core group of government ministries, donors and the United Nations to integrate provincial anti-drug activities and identify quick-impact and medium-term alternative livelihood programmes and infrastructure projects. The Islamic Republic of Iran and the United States have provided resources for labour-based public works and infrastructure projects, and multidisciplinary government teams have been dispatched to the provinces to work with local officials to define quick impact projects. The United Kingdom is providing institutional support to the Government.

Handover of the International Security Assistance Force

36. On 10 February, Turkey handed over the leadership of ISAF to Germany and the Netherlands at a ceremony in Kabul attended by President Karzai and the Ministers for Defence of Afghanistan and the three nations. My Special Representative has already established a close relationship with the new command and we look forward to continued, effective leadership and cooperation from the German and the Netherlands headquarters.

D. Judicial sector reform

37. In my previous report, I noted that the membership of the Judicial Commission was being reviewed (A/57/487-S/2002/1173, para. 25). A new 12-member commission was subsequently mandated, by Presidential decree, to lead the effort to reform Afghanistan's judicial sector as called for by the Bonn Agreement. The Commission has been empowered to organize a comprehensive law reform programme, survey the human, technical and logistical needs of the justice sector and develop selection and training programmes for judges, prosecutors and other lawyers.

38. The Commission began work on 28 November 2002 and has completed a detailed national plan for the justice sector based on consultations with relevant actors in the sector. A conference sponsored by the Government of Italy, held in Rome on 19 and 20 December 2002, provided further momentum. The Commission

is preparing for the launch in Kunduz of a pilot survey of the justice sector. The needs of the sector are vast, and the task of rehabilitating it will be immense. The Commission has identified a set of immediate priorities, however, which include rehabilitation of court premises, short training programmes for judges and other law officers, and providing recommendations to the constitutional commission on justice issues pertaining to the new draft constitution. Italy, as the lead nation, and UNAMA are supporting the Commission. Some $30 million has been pledged in Rome for several years. However, at present, only half of the $27.5 million needed for 2003 to implement the national plan is available.

E. Human rights issues

Overall human rights situation

39. The general human rights situation in Afghanistan remains a source of great concern. The lack of adequate national security and law enforcement capacity and the weakness of the justice system exacerbate human rights violations. Abuses are committed in all parts of the country, most often by forces under the control of regional factions or local commanders. Thus, improving the security environment throughout the country remains the most important precondition for protecting and promoting human rights and for developing national and non-governmental Afghan human rights institutions.

Afghan Independent Human Rights Commission

40. The Afghan Independent Human Rights Commission, mandated by the Bonn Agreement, was able to intensify the implementation of its programme with the support of a joint UNAMA/Office of the United Nations High Commissioner for Human Rights (OHCHR)/UNDP project that came into force on 28 October 2002. The Commission conducted a number of seminars and workshops on women's rights, human rights education and transitional justice and carried out joint human rights investigations with UNAMA throughout the country. In addition, the Commission plans to open regional offices in Mazar-i-Sharif, Herat, Kandahar, Bamyan, Jalalabad, Gardez and Fayzabad. UNAMA is assisting the Commission in obtaining the support of local authorities. The Commission has thus far received more than 600 petitions and complaints from individuals and groups across the country. Its investigations have focused on complaints of abuses against witnesses to human rights violations, the situation of Pashtuns in the north, and complaints of the Hazara community from Helmand. Together with the Ministry of Interior and the Attorney General, the Commission is also participating in an investigation of prison conditions throughout the country.

41. An Advisory Group on Human Rights has been established, chaired by the Afghan Independent Human Rights Commission, and composed of representatives of the Afghan Transitional Administration, donor countries, and United Nations entities, to serve as a forum assessing the human rights situation, discussing broader human rights issues, and working on the establishment of human rights benchmarks for the Government's implementation of basic human rights concepts and instruments in its development programmes.

42. The Commission and UNAMA have also initiated a dialogue on human rights issues with representatives of the Governor of Herat, Ismael Khan. In Kunduz,

UNAMA is assisting the Governor in a commission that has been established to resolve land disputes that have led to clashes between the Turkmen and Uzbek communities.

43. In addition to supporting the Commission, UNAMA has conducted its own investigation and monitoring activities. With the assistance of OHCHR, UNAMA sponsored in December 2002 a training workshop for international and local staff on human rights monitoring, investigation techniques and protection issues. The workshop focused on violations related to intimidation of members of political groups or civil society organizations, discrimination against specific ethnic groups, violence against women and the violation of their rights, and intimidation of witnesses to serious human rights violations. This latter issue has been a concern in relation to witnesses with potential information regarding the mass graves in the north (see A/57/487-S/2002/1173, para. 21).

44. In this regard, in December 2002, UNAMA supported the visit of an OHCHR-funded forensics expert to conduct a technical review of the gravesites near Mazar-i-Sharif. UNAMA is discussing the way forward with the Government, the Commission and OHCHR, bearing in mind the ongoing problem of providing adequate security for witnesses.

F. Gender issues

45. Despite enduring years of hardship, the brutality of war, and the continuing widespread denial of their fundamental rights, Afghan women, particularly those in urban areas, are slowly reentering public life as professionals, students and active participants in society. Over 30 per cent of the students who returned to school in 2002 were girls and a third of the teachers were women. Women journalists have been able to return to their jobs as radio and television broadcasters and hundreds of women are working as civil servants and professionals in hospitals, courts, other government and non-governmental organizations, the United Nations and the private sector. The Afghan Independent Human Rights Commission, the Judicial Commission and the Constitutional Commission all include women members who are at the forefront of advancing women's concerns in the areas of human rights, judicial and constitutional reform. UNAMA and all United Nations agencies are working with these Afghan institutions to ensure women's issues are fully addressed. I particularly welcome, in this regard, that on 5 March 2003 Afghanistan deposited the instruments of ratification for the Convention on the Elimination of All Forms of Discrimination against Women.

46. The Ministry of Women's Affairs, with technical support from UNAMA and the United Nations Development Fund for Women, has worked to ensure consideration of gender issues as an integral part of the National Development budget process. The Ministry has also requested United Nations support for the establishment of a gender and policy working group to assist the Ministry to formulate its policy framework for the advancement of women's rights. Efforts have been made to incorporate women's issues into the constitution. The two women members of the Constitution Commission met with representatives of 15 agencies, organizations and donors in December 2002 to discuss procedural and legal concerns pertaining to the protection and promotion of women's rights. This

dialogue will continue, and the next meeting will include members of the other Bonn commissions and civil society.

47. To commemorate the International Day for the Elimination of Violence against Women, the Ministry convened a national workshop focusing on domestic violence. In addition, the legal department of the Ministry has been involved in monitoring the situation of women in prison and, through its advocacy, helped secure the release of 23 female prisoners in Kabul in November.

G. Media development

48. During the past 12 months, the media in Afghanistan has gone from near non-existence to being a very vibrant sector, in spite of the paucity of resources and occasional limitations imposed by State agents. According to the Ministry of Information and Culture there are now over 170 publications in the country. The electronic media is also slowly expanding. The most recent illustration of this trend was the launch on 8 March 2003 of Radio the Voice of Afghan Women, an independent FM radio station in Kabul. Afghanistan television and radio, which a year ago had only three or four functioning stations (from a pre-war total of 18 television and 21 radio stations) now operates 11 TV and 14 radio stations, albeit with many limitations in their programmes, broadcast reach and coordination with Kabul headquarters. Donors, non-governmental organizations, institutions such as the BBC World Service Trust, and United Nations programmes — particularly UNAMA and the United Nations Educational Scientific and Cultural Organization — have been supporting the development of the Afghan media.

III. Relief, recovery and reconstruction

A. Winter response

49. The relief, recovery and reconstruction pillar of UNAMA has been working to mitigate the harsh effects of winter on the most vulnerable in Afghanistan. A Cabinet commission on winter preparedness was established under the leadership of the Ministry of Rural Rehabilitation and Development. This commission worked in close cooperation with a winter task force that brings together Government, United Nations and international agencies, and non-governmental organizations. In addition, sub-national task forces were formed in eight areas around the country and United Nations staff have been seconded to work with provincial authorities. The winter task force helped coordinate efforts to meet the needs of some 2.2 million highly vulnerable Afghans, mainly living in the north and west and in the central highlands. Thanks to generous donor support, this population continues to receive emergency food aid, and assistance for shelter and warmth.

50. Initial communication difficulties were mitigated by the provision of equipment and training to provincial authorities of the Ministry of Rural Rehabilitation and Development. On the whole, non-food needs have been met and some 95 per cent of required food supplies were pre-positioned throughout the country by February 2003. Emergency repairs have kept the Salang tunnel route into the northern region open for much of the winter, thanks to the coordinated efforts of the Ministry of Rural Rehabilitation and Development and non-governmental

organization partners, while the United Nations Joint Logistics Cell and UNOPS have helped to keep other access routes open. Cash-for-work projects have also provided income to over 30,000 families, and labour-based contracts have resulted in the employment of over 2,000 workers, helping inject cash into local economies.

B. Refugees and internally displaced persons

51. There are approximately 480,000 internally displaced persons in Afghanistan, most of them in the south. Families generally feel compelled to move because of discrimination, extortion, taxation, drought conditions, and purely economic motives. Although the internally displaced person situation has stabilized somewhat, families are still moving from the north and other already displaced families continue to move in search of assistance. The return of internally displaced persons to their home communities will depend on an improvement in the drought-affected areas, the resolution of land disputes and political developments in the north.

52. Some positive developments have occurred in the effort to facilitate the return of the mostly Pashtun internally displaced persons who fled tensions and oppression in the north after the fall of the Taliban. On 17 October 2002, the Return Commission for the North was established to prepare for and supervise the return of these internally displaced persons under dignified and safe conditions. The Commission is composed of traditional leaders, local factions, the Ministry of Return and Repatriation, the Afghan Independent Human Rights Commission, UNHCR and UNAMA. The United Nations High Commissioner for Refugees attended a plenary meeting of the Commission on 27 February, at which the findings of a survey to determine obstacles to the return of internally displaced persons was revealed. At the meeting, a set of specific recommendations was adopted to facilitate returns, including disarmament, measures to address land disputes, a campaign against forced recruitment of soldiers, ending taxation by armed groups and the provision of development projects to alleviate conflict over scarce resources.

53. With regard to refugee return, Pakistan, Afghanistan and UNHCR announced their intention to sign, on 17 March, an agreement setting out a three-year framework for the voluntary return of refugees from Pakistan. Discussions continue between the Islamic Republic of Iran, Afghanistan and UNHCR for the renewal of the joint programme for the voluntary return of refugees in the Islamic Republic of Iran. The United Nations will continue to pursue mutually acceptable solutions with the host countries to achieve gradual, voluntary return in keeping with Afghanistan's ability to absorb returnees. To build that capacity, UNHCR and UNDP have signed cooperation agreements bilaterally and together with the Ministry of Rural Rehabilitation and Development to coordinate support and target aid to support the return and reintegration of refugees and internally displaced persons.

C. Health and Nutrition

54. A final round of poliomyelitis immunization was conducted in December 2002 (see A/57/487-S/2002/1173, para. 42). Extra efforts are being made in areas of high refugee return to ensure that returning children are immunized. As of December 2002, the measles campaign had provided 8.8 million children between 6 months and 12 years of age with life-long protection against this disease. The first round of

a three-year tetanus toxoid campaign took place in February 2003, targeting 740,000 women of child-bearing age. These immunization campaigns are notable examples of coordination and planning between the Government, United Nations agencies and non-governmental organizations.

D. Education

55. The Ministry of Education used the three-month winter school break to provide intensive training for teachers. Some 18,000 primary school teachers in 29 of the 32 provinces are being trained in language and mine-risk education, and 30,000 teachers in Kabul are being trained in general teaching methodologies. Accelerated learning courses were provided to 18,000 over-aged girls at primary schools in Kabul during the winter months. Under the leadership of the Ministry of Education, preparations are currently under way for the new school year beginning on 22 March 2003. Procurement and distribution of school supplies for 4.5 million schoolchildren and 80,000 teachers is under way.

IV. Mission support

56. The lead responsibility for UNAMA shifted smoothly from the Department of Political Affairs to the Department of Peacekeeping Operations on 1 November 2002. The Mission has completed the task of assimilating the personnel and equipment of the United Nations Special Mission to Afghanistan (UNSMA) and the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA). UNAMA has completed a physical inspection of the equipment transferred from UNOCHA and is preparing a plan for its distribution.

57. To assist in the mandated goal of integration, UNAMA has entered into a lease for an 18-hectare site on the outskirts of Kabul that will be used for the United Nations Operations Centre in Afghanistan, supporting logistics, administration and other functions for United Nations offices that co-locate there. UNAMA administrative offices will move into the complex by 31 March 2003. Other United Nations entities that have committed to relocating in part or whole to the United Nations Operations Centre in Afghanistan are UNOPS, the Mine Action Centre for Afghanistan, and the United Nations Children's Fund, UNDP, UNFPA, the World Food Programme and IOM are currently considering the matter. The United Nations Operations Centre in Afghanistan will enhance staff security and allow substantial savings in rentals, with joint facilities to be established providing for security, conference and training venues, medical and cafeteria services, water distribution and vehicle maintenance services.

58. One of the Mission's key objectives is to minimize the size of the international staff presence while building national staff capacity. UNAMA is continuing to identify international posts to be replaced and augmented with National Officer posts. UNAMA is also preparing a broad range of staff training programmes to facilitate this process.

59. Infrastructure in Afghanistan remains basic, and support of voter registration, civic education programmes and the conduct of the election itself will be a significant challenge requiring substantial resources. UNAMA is working to define,

in consultation with the Electoral Assistance Division and the Department of Peacekeeping Operations in New York, the additional personnel, equipment, material and financial resources that will be required.

V. Mandate and structure of the United Nations Assistance Mission in Afghanistan

A. Mandate

60. The mandate of UNAMA under Security Council resolution 1401 (2002) will expire on 28 March. Should the Council decide to extend the UNAMA mandate, I propose to maintain the mandate currently provided for under resolution 1401 (2002), as described under paragraph 97 of my report of 18 March 2002 (A/56/875-S/2002/278).

B. Overall structure of the United Nations Assistance Mission in Afghanistan

61. I propose to maintain the structure of UNAMA as described in my report of 18 March 2002, comprising an Office of the Special Representative of the Secretary-General, a pillar for political affairs, a pillar for relief, recovery and reconstruction and a mission support component. In the light of the experience of its first year of operations, and new demands that would be expected of it in the forthcoming year, I would propose to adjust the structure in a few key areas, as outlined below.

C. Office of the Special Representative of the Secretary-General

62. The tasks and structure of the Office of the Special Representative would remain as described in my report of 18 March 2002, except for a small increase in the military and civilian police advisory units. Given the increasing complexity and importance of security sector reform, I propose that the Military Advisory Unit be enlarged to a total of eight officers. This would allow the Unit broader national coverage. The functions of the Unit will remain unchanged, i.e., to provide advice to the Special Representative and senior UNAMA staff and to carry out military liaison with numerous Afghan Central Government and regional military authorities, the United States-led Coalition and ISAF.

63. Similarly, the importance of police reform to the overall security situation in Afghanistan has merited a review of the civilian police advisory function. UNAMA conducted a comprehensive review in February 2002 of how United Nations civilian police might support ongoing reform in the police sector. Based on this review, I believe that United Nations police advisers could, in close cooperation with the German police training project group, provide increased advice to the Special Representative as well as to the Government of Afghanistan on police reform in Kabul and in the provinces. I would therefore recommend an expansion of the civilian police advisory unit to a total number of eight police advisers.

64. Reform of the corrections system is also a key part of building the rule of law in Afghanistan. In 2002, a corrections officer seconded from the Government of

Finland has assisted my Special Representative in assessing the government needs of the correction system in Afghanistan. This advisory function has played an important role in the under-supported corrections sector. I therefore recommend the addition to UNAMA of one Corrections Adviser attached to the Office of the Special Representative.

65. In order to enhance the integration of United Nations efforts and policy coordination on the cross-cutting issues of disarmament, demobilization and reintegration and drugs control, I wish to advise Member States that the senior UNDP expert on disarmament, demobilization and reintegration has also been designated as the Special Representative's Senior Adviser on disarmament, demobilization and reintegration, and the Country Representative of the Office on Drugs and Crime has likewise been designated Senior Adviser to the Special Representative on drugs control. As these functions are funded outside the UNAMA budget, this integration exercise will not entail any additional UNAMA resources.

D. Pillar I: political affairs

66. Pillar I would continue to be headed by a Deputy Special Representative for Political Affairs, with the tasks and structure described in my report of 18 March 2002 (paras. 104 and 105), with the exception of tasks related to the holding of the Emergency Loya Jirga, which have been completed. The implementation of the Bonn Agreement and the overall peace process will require Pillar I to carry out a number of tasks not explicitly mentioned in my 18 March 2002 report, but that are nonetheless fully in keeping with the established mandate. These tasks are:

(a) Providing political and policy advice to the Special Representative on security sector reform, coordinating security sector reform activities undertaken by UNAMA and United Nations agencies, and carrying out liaison with the Government of Afghanistan and local and international actors on security sector reform;

(b) Providing advice and assistance to the Constitutional Commission, coordinating international assistance to the Commission, providing advice and coordinating assistance to the Constitutional Loya Jirga. As mentioned in paragraph 14 above, this will require the addition of at least one constitutional specialist;

(c) Providing support and assistance to the Government in the preparation for national elections, including the registration of voters and coordination of international assistance. As mentioned in paragraph 16 above, this task will require the establishment of an electoral section headed by an internationally recognized senior expert supported by an appropriate team in Kabul and in the provinces.

E. Pillar II: relief, recovery and reconstruction

67. Under the Deputy Special Representative for Relief, Recovery and Reconstruction, Pillar II would continue to fulfil the tasks elaborated in my 18 March 2002 report. Pillar II's work in 2003 would focus on the following key principles:

(a) Assisting in the development of increasingly self-sufficient and accountable national, provincial and local institutions that have the capacity to lead,

coordinate and manage the national reconstruction process and the response to ongoing humanitarian crisis;

(b) Assisting the reconstruction process, led by Afghans, so that it may contribute to increasing peace, security and stability; and facilitating the provision of international assistance so that it contributes to state-building, national reconstruction priorities and to the development of long-term solutions to immediate survival and protection needs, and based on principles grounded in gender-equity and human rights.

68. In line with its existing mandate, and based on the experience of the past year, Pillar II will focus its work on several key areas in the coming period, including:

(a) Ensuring integration of United Nations programme priorities with national priorities;

(b) Ensuring complete transparency with national counterparts through joint programme planning, implementation and reviews;

(c) Ensuring government ownership of information through accelerated support for building government capacity in information management, assessment protocols and procedures and, in the meantime, ensuring the joint conduct of reviews and assessments;

(d) At the central level, accelerating the provision of technical support to government departments;

(e) At the provincial level, supporting government coordination mechanisms to strengthens links between the centre and the provinces;

(f) Examining United Nations operating procedures to identify concrete ways of increasing our efficiency and effectiveness; and

(g) Accelerate the process of "regularizing" inter-agency country programming where possible through development of a common United Nations system/government development framework, thus allowing the consolidated appeal (currently the main transition vehicle) to revert to purely humanitarian requirements.

VI. Observations

69. **The present report coincides with the completion of the Mission's initial mandate of one year. The Afghan Transitional Administration and the international community, along with UNAMA, can draw satisfaction from a number of significant accomplishments. Among other achievements, the timetable of the Bonn Agreement has largely been kept thus far, some 1.5 million refugees and 500,000 internally displaced persons returned to their homes, 3 million Afghan children returned to school, a new currency was launched, the Government developed a comprehensive national budget and no major outbreak of fighting occurred.**

70. **At the same time, Afghanistan's peace process remains fragile. Insecurity and the lack of law and order continues to impact negatively on the lives of Afghans everyday, whittling away at the support for the transitional process. Too many Afghans remain dissatisfied at the pace of reconstruction and economic development, and await their "peace dividend". Furthermore, far too**

many Afghans remain uncertain as to whether the transitional process is truly national, providing political space and equal opportunities to all Afghans regardless of their political or ethnic affiliation. After 23 years of war, the progress made in 2002 has only begun to shore up the fragile foundations of peace, but stability and national reconciliation are by no means firmly consolidated.

71. This goal will require progress on a number of fronts in 2003. Key State institutions must be entrenched, and more control over the continuing problem of security and lawlessness must be achieved. The army and police will be key institutions in this respect, and progress in the overall disarmament, demobilization and reintegration and security sector reform effort (see para. 27 above) will help to promote an improved human rights environment, economic development and the ability of the Government to enhance its authority and legitimacy. I commend the closely coordinated and committed work that the Government and international community have already undertaken in this regard, and I urge the Government of Afghanistan to take the necessary steps to continue to reform its security institutions, and trust that the international community's support for security sector reform will continue to be forthcoming.

72. The constitution-making process set for 2003 is another State-building exercise fundamental to the Bonn process. Success in this endeavour will provide the legal foundations for the institutions of a peaceful democratic Afghanistan. Dialogue and debate on constitutional issues in Afghanistan will touch upon the core of its values and sovereignty. It will therefore be vital that the process of drafting, consultation, debate and decision-making be at all times driven and led by Afghans, who alone can properly gauge and reflect in their constitution the wishes of the people, while ensuring that it supports modern Afghanistan's position within the international community.

73. Specific preparations for elections in June 2004 will also have to be advanced in 2003, as noted in paragraph 17 above. UNAMA and the United Nations system stand ready, subject to Security Council approval, to respond to President Karzai's request for support. There are also welcome expressions of support from some international non-governmental entities with electoral expertise. A well-coordinated programme of assistance will be necessary, which above all must ensure that the Afghan electoral body, yet to be created, is built up in a manner allowing it to take the lead in conducting the elections and becoming a sustainable institution for future elections.

74. As the complex political processes related to the constitution and elections preparations get under way in Afghanistan in 2003, Afghans must be certain that these processes, and the institution-building effort as a whole, serves them equally. At present, there remain clear signs that, despite President Karzai's statesmanlike example of national leadership, elements of the transitional administration continue to be seen by Afghans as serving primarily one Afghan constituency or another. The political process should be broad and open enough so that all Afghans who wish to participate in good faith can do so, lest they be left outside the fold, with a growing incentive to join the ranks of those actively thwarting the peace process. There are already too many "spoilers" who are reportedly intent on undermining the peace process in Afghanistan; they must

be left in no doubt that the authorities in Afghanistan and the international community stand ready to protect and see the peace process through to the end.

75. For many Afghans, some relief in the daily struggle to survive, rather than politics, will be the key test of the peace process. In that respect, the success of the reconstruction effort will be vital since, without it, the patience of the average citizen will run thin and the legitimacy of the Government will become strained. The international community's generous commitment to Afghanistan will need to be maintained, and the major infrastructure and employment projects will need to be steadily implemented, in order to ensure at least the basic levels of reconstruction that are planned. As long as they are able to see some tangible progress in reconstruction, Afghans throughout the country will be encouraged and will progressively assume the responsibility for the reconstruction of their country.

76. Afghanistan will continue to need considerable political and financial engagement from the international community for some time to come. Without this, the progress made thus far might not only slow down, but indeed, be dangerously reversed. A number of Member States have reassured both President Karzai and me that they intend to follow through the commitments they have made, mindful of the perils that might once again arise if Afghanistan were to be neglected. These assurances are indeed welcome, most of all to the Afghans themselves who remain concerned that other tensions in the region will draw the attention and support of the international community away from Afghanistan at this critical time. I urge donors to continue to meet their commitments to Afghanistan and to stay engaged in the peace and reconstruction process over the next year as they have over the past year.

77. I would like to express my gratitude to the Government of Turkey for the professionalism and dedication of its officers and soldiers during the eight months that they held the ISAF lead, and to each of the other 29 Member States that are currently providing personnel to ISAF. I also wish to express my gratitude to the Governments of Germany and the Netherlands for assuming the responsibility for ISAF.

78. Finally, I would like to take this opportunity to thank my Special Representative, Lakhdar Brahimi, and all his staff in UNAMA, for their continued dedication to the peace process in Afghanistan.

United Nations S/2003/334

Security Council

Distr.: General
19 March 2003
English
Original: English and French

Draft resolution

The Security Council,

Recalling its previous resolutions and statements by its President regarding the Democratic Republic of the Congo,

Expressing its full support for the efforts of the High Commissioner for Human Rights and its appreciation of his report on the situation in Ituri (S/2003/216) and recalling the previous report on the situation in Kisangani (S/2002/764),

Welcoming the thirteenth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) (S/2003/211),

Commending the Government of Angola for its efforts in ensuring the implementation, by the parties, of the Luanda Agreement of 6 September 2002, which establishes the basis for a settlement in the Ituri area, and expressing its gratitude to the Government of Angola for their readiness to continue these efforts,

Commending also the Government of South Africa for its role in cooperation with the Special Envoy of the Secretary-General to help the Congolese parties reach an agreement on the transitional arrangements,

Commending the efforts of the Special Envoy of the Secretary-General, the Special Representative of the Secretary-General and their teams for helping steer the negotiations in Pretoria to a successful conclusion,

Determining that the situation in the Democratic Republic of the Congo continues to pose a threat to international peace and security in the region,

1. *Welcomes* the agreement reached by the Congolese parties in Pretoria on 6 March 2003 on the transitional arrangements, commends the Congolese parties, whose responsibility it is to implement fully the commitments they have taken, for their efforts in settling the outstanding issues, and calls on them to establish as soon as possible the transitional government in the Democratic Republic of the Congo, and stresses that any effort to undermine or delay its establishment would be unacceptable;

2. *Condemns* the massacres and other systematic violations of International Humanitarian Law and human rights perpetrated in the Democratic Republic of the Congo, in particular sexual violence against women and girls as a tool of warfare and atrocities perpetrated in the Ituri area by the Mouvement de Libération du

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Congo (MLC) and the Rassemblement Congolais pour la Démocratie/National (RCD/N) troops, as well as the acts of violence recently perpetrated by the Union des Patriotes Congolais (UPC) forces, and reiterates that there will be no impunity for such acts and that the perpetrators will be held accountable;

3. *Stresses* that the military officers whose names are mentioned in the report of the United Nations High Commissioner for Human Rights in connection with serious violations of international humanitarian law and human rights should be brought to justice, through further investigation, and if warranted by that investigation, held accountable through a credible judicial process;

4. *Calls upon* the Congolese parties, when selecting individuals for key posts in the transitional government, to take into account the commitment and record of those individuals with regard to respect for International Humanitarian Law and human rights and the promotion of the well-being of all the Congolese;

5. *Strongly encourages* the Congolese parties forming the transitional government to establish as soon as possible a Truth and Reconciliation Commission charged with determining responsibility for serious violations of international humanitarian and human rights law, as set forth in the resolutions adopted in the framework of the Inter-Congolese Dialogue in Sun City in April 2002;

6. *Reiterates* that all parties claiming a role in the future of the Democratic Republic of the Congo must demonstrate their respect for human rights, International Humanitarian Law, as well as the security and well-being of civilian populations and emphasizes that the transitional government in the Democratic Republic of the Congo will have to restore law and order and respect for human rights, and end impunity, across the entire country;

7. *Requests* the Secretary-General to increase the number of personnel in MONUC's human rights component to assist and enhance, in accordance with its current mandate, the capacity of the Congolese parties to investigate all the serious violations of international humanitarian law and human rights perpetrated on the territory of the Democratic Republic of the Congo since the beginning of the conflict in August 1998, and requests also the Secretary-General, in consultation with the High Commissioner for Human Rights, to make recommendations to the Council on other ways to help the transitional government in the Democratic Republic of the Congo address the issue of impunity;

8. *Expresses its deep concern* over the heavy fighting in Bunia, demands that all parties to the conflict in Ituri immediately cease the hostilities and that all parties sign an unconditional ceasefire agreement, stresses that they must cooperate with MONUC to set up without further delay the Ituri Pacification Commission, and also stresses that the necessary steps must be taken to restore public order in Bunia, in accordance with the agreements reached among Congolese parties and within the framework of the Ituri Pacification Commission;

9. *Requests* the Secretary-General to increase MONUC's presence in the Ituri area, as security conditions permit, in particular military observers and human rights personnel, to monitor developments on the ground, including the use of airfields in the Ituri area, and also requests MONUC to provide further support and assistance to humanitarian efforts as well as to facilitate the formation of the Ituri Pacification Commission and assist the work of this commission as consistent with

MONUC's current mandate, in consultation with all the Congolese parties to the conflict;

10. *Encourages* MONUC's efforts to consult with the relevant parties on possible options for addressing the immediate security situation in the Ituri area and requests that MONUC keep the Council informed of its efforts in this regard;

11. *Demands* that all governments in the Great Lakes region immediately cease military and financial support to all the parties engaged in armed conflict in the Ituri region, stresses the need for all Congolese parties, including the Government of the Democratic Republic of the Congo, to respect their commitments under the Lusaka Ceasefire Agreement, as well as the Kampala plan and the Harare sub-plans for disengagement and redeployment, and reiterates that all foreign troops must be withdrawn from the territory of the Democratic Republic of the Congo;

12. *Calls* on the Government of Uganda to complete the withdrawal of all its troops without further delay and, in this regard, expresses its concern that that Government's commitment to withdraw by 20 March 2003 has not been met, and, concerned also at the statement of 14 March 2003 issued by the Ministry of Foreign Affairs and Regional Cooperation of Rwanda, calls on the Government of Rwanda not to return any forces to the territory of the Democratic Republic of the Congo, and stresses that any renewal of strengthening of foreign military presence on the territory of the Democratic Republic of the Congo would be unacceptable and would undermine the progress achieved thus far in the peace process;

13. *Expresses its deep concern* at the rising tensions between Rwanda and Uganda and their proxies on the territory of the Democratic Republic of the Congo, and stresses that the governments of these two countries must take steps to build mutual confidence, must settle their concerns through peaceful means, and without any interference in Congolese affairs, and must refrain from any action that could undermine the peace process;

14. *Demands also* that all the parties to the conflict in the Democratic Republic of the Congo, and in particular in Ituri, ensure the security of civilian populations and grant to MONUC and to humanitarian organizations full and unimpeded access to the populations in need;

15. *Reiterates* its demand expressed in its resolution 1460 that all parties to the conflict provide information without delay on steps they have taken to halt their recruitment or use of children in armed conflict in violation of the international obligations applicable to them, as well as its demands with regard to the protection of children contained in its resolutions 1261, 1314, 1379 and 1460;

16. *Recalls* its demand that full and unimpeded access be granted to MONUC and the Third Party Verification Mechanism so that it could verify the implementation of the Pretoria Agreement of 30 July 2002 and investigate the allegations on the presence of Rwandan troops in the territory of the Democratic Republic of the Congo, as well as allegations of support by the Government of the Democratic Republic of the Congo to the armed groups in the east of the country, reiterates that both would be unacceptable and would undermine the continuation of the peace process, and stresses that any ongoing military activity in the east of the Democratic Republic of the Congo has a detrimental effect on MONUC's operations of disarmament, demobilization, repatriation, reintegration or resettlement (DDRRR) of armed groups;

17. *Requests* that MONUC report as soon as possible to the Council on the results of its investigations referred to in paragraph 16;

18. *Expresses* its support to the broad orientations set out by the Secretary-General in paragraph 59 of his last report on the role of MONUC in support of the peace process, and expresses its intention to consider his recommendations in this regard;

19. *Reiterates* its full support for MONUC and the efforts it continues to deploy to help the parties in the Democratic Republic of the Congo and in the region advance their peace process and stresses the importance of MONUC moving forward with its phase III deployment in accordance with resolution 1445;

20. *Decides* to remain actively seized of the matter.

United Nations S/2003/335

Security Council

Distr.: General
18 March 2003

Original: English

Letter dated 18 March 2003 from the Permanent Representatives of Portugal, Spain, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the President of the Security Council

On behalf of our Governments, we have the honour to attach the texts of the statements of the United States, Britain, Spain and Portugal at the Azores meeting of 16 March 2003, entitled "A vision for Iraq and the Iraqi people" and "Commitment to transatlantic solidarity", with the request that this letter and its annex be circulated as a document of the Security Council.

(*Signed*) Gonçalo de Santa Clara **Gomes**
Ambassador
Permanent Representative of Portugal

(*Signed*) Inocencio **Arias**
Ambassador
Permanent Representative of Spain

(*Signed*) Jeremy **Greenstock**
Ambassador
Permanent Representative of the United Kingdom

(*Signed*) John D. **Negroponte**
Ambassador
Permanent Representative of the United States

03-28580 (E) 180303

Annex to the letter dated 18 March 2003 from the Permanent Representatives of Portugal, Spain, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the President of the Security Council

Statement of the Atlantic Summit: a vision for Iraq and the Iraqi people

Iraq's talented people, rich culture, and tremendous potential have been hijacked by Saddam Hussein. His brutal regime has reduced a country with a long and proud history to an international pariah that oppresses its citizens, started two wars of aggression against its neighbours, and still poses a grave threat to the security of its region and the world.

Saddam's defiance of United Nations Security Council resolutions demanding the disarmament of his nuclear, chemical, biological, and long-range missile capacity has led to sanctions on Iraq and has undermined the authority of the United Nations. For 12 years, the international community has tried to persuade him to disarm and thereby avoid military conflict, most recently through the unanimous adoption of Security Council resolution 1441 (2002). The responsibility is his. If Saddam refuses even now to cooperate fully with the United Nations, he brings on himself the serious consequences foreseen in resolution 1441 (2002) and previous resolutions.

In these circumstances, we would undertake a solemn obligation to help the Iraqi people build a new Iraq at peace with itself and its neighbours. The Iraqi people deserve to be lifted from insecurity and tyranny, and freed to determine for themselves the future of their country. We envisage a unified Iraq with its territorial integrity respected. All the Iraqi people — its rich mix of Sunni and Shiite Arabs, Kurds, Turkomen, Assyrians, Chaldeans, and all others — should enjoy freedom, prosperity, and equality in a united country. We will support the Iraqi people's aspirations for a representative government that upholds human rights and the rule of law as cornerstones of democracy.

We will work to prevent and repair damage by Saddam Hussein's regime to the natural resources of Iraq and pledge to protect them as a national asset of and for the Iraqi people. All Iraqis should share the wealth generated by their national economy. We will seek a swift end to international sanctions, and support an international reconstruction programme to help Iraq achieve real prosperity and reintegrate into the global community.

We will fight terrorism in all its forms. Iraq must never again be a haven for terrorists of any kind.

In achieving this vision, we plan to work in close partnership with international institutions, including the United Nations; our allies and partners; and bilateral donors. If conflict occurs, we plan to seek the adoption, on an urgent basis, of new United Nations Security Council resolutions that would affirm Iraq's territorial integrity, ensure rapid delivery of humanitarian relief, and endorse an appropriate post-conflict administration for Iraq. We will also propose that the Secretary-General be given authority, on an interim basis, to ensure that the

humanitarian needs of the Iraqi people continue to be met through the oil-for-food programme.

Any military presence, should it be necessary, will be temporary and intended to promote security and elimination of weapons of mass destruction; the delivery of humanitarian aid; and the conditions for the reconstruction of Iraq. Our commitment to support the people of Iraq will be for the long term.

We call upon the international community to join with us in helping to realize a better future for the Iraqi people.

Statement of the Atlantic Summit: commitment to transatlantic solidarity

We, the leaders of four democracies with strong transatlantic affiliation, meet at a time of great challenge. We face painful choices.

We uphold a vision of international security we share with other nations. Our nations and people know the horror of war, whether visited upon us, or whether we are called to confront a great danger.

At this difficult moment, we reaffirm our commitment to our core values and the transatlantic alliance that has embodied them for two generations. Our alliance rests on a common commitment to democracy, freedom, and the rule of law. We are bound by solemn commitment to defend one another. We will face and overcome together the twin threats of the twenty-first century: terrorism and the spread of weapons of mass destruction. All nations must unite to defeat these dangers. We will not allow differences of the moment to be exploited in ways that bring no solutions.

Our security is tied to peace and security throughout the world. Together, we are working to bring security to Afghanistan, and to root out the terrorists who remain there. We affirm a vision of a Middle East peace in which two States, Israel and Palestine, will live side by side in peace, security, and freedom. We welcome the fact that the road map designed to implement this vision will soon be delivered to Palestinians and Israelis, upon the confirmation of an empowered Palestinian Prime Minister. We would welcome the appointment of a Palestinian Prime Minister with sufficient authority to put an end to terrorism and consolidate necessary reforms. We shall look to the parties to work constructively together. We have today issued a statement outlining the challenge that Saddam Hussein poses for the world, and our vision of a better future for the Iraqi people.

We urge our friends and allies to put aside differences, and work together for peace, freedom and security. The friendship and solidarity between Europe and the United States is strong and will continue to grow in years to come.

United Nations S/2003/336

Security Council

Distr.: General
18 March 2003

Original: English

Letter dated 13 March 2003 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

Upon instructions from my Government and with reference to your summary statement on matters of which the Security Council is seized and the stage reached in their consideration contained in document S/2003/40 of 14 February 2003, I have the honour to request the retention on the list of matters of which the Council is seized of item 20 listed in paragraph 8 of the said document, entitled "The situation between Iran and Iraq".

I should be grateful if you would have the present letter circulated as a document of the Council.

(*Signed*) M. Javad **Zarif**
Ambassador
Permanent Representative

03-28616 (E) 190303

United Nations S/2003/337

Security Council

Distr.: General
18 March 2003

Original: English

Note by the President of the Security Council

The members of the Security Council, taking note of the decision by the Secretary-General to suspend, for security reasons, the work of the United Nations humanitarian personnel in Iraq, stand ready to consider as soon as possible the proposals being prepared by the Secretary-General on how to meet humanitarian needs of the people of Iraq, taking into account the urgency of the humanitarian situation in Iraq.

03-28586 (E) 180303

United Nations A/57/739–S/2003/338

General Assembly
Security Council

Distr.: General
19 March 2003
English
Original: French

General Assembly
Fifty-seventh session
Agenda item 109
Human rights questions

Security Council
Fifty-eighth year

Letter dated 5 March 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Côte d'Ivoire to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit herewith the comments of the Government of Côte d'Ivoire (see annex) on the report of the United Nations emergency mission on the human rights situation in Côte d'Ivoire, issued as document S/2003/90 of 24 January 2003.

I should be grateful if you would have the whole of this text issued as a document of the General Assembly under agenda item 109, and of the Security Council.

(*Signed*) Noël-Emmanuel **Ahipeaud Guebo**
Chargé d'affaires a.i.

03-26150 (E) 280303 280303

Annex to the letter dated 5 March 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Côte d'Ivoire to the United Nations addressed to the Secretary-General

Comments of the Government of Côte d'Ivoire on the report of the fact-finding mission of the Office of the High Commissioner for Human Rights on the human rights situation in Côte d'Ivoire, of 29 December 2002

Introduction

During the night of 18-19 September 2002, Ivorians' dream of regaining calm and happiness after two years of tumult was brutally transformed into a nightmare. Unheard of and unprecedented violence had just burst into their history, violence that was all the more painful in that no hint had been apparent following the formation of one of the most consensual Governments ever known in Côte d'Ivoire.

Since that date war, with its train of misfortunes, has taken firm hold. In peacetime, human rights must be the subject of constant vigilance because of the passions of men who are often inclined to abuse their power or their strength. In wartime, even the most virtuous may find violence rising in them under the combined impact of the self-preservation instinct and of provocation and harassment of all kinds, particularly by biased media coverage.

Thus times of crisis must be times of surpassing of oneself and of courage in order to retain all the chances of emerging from them. It is to this rising above themselves that Ivorians and their Government have devoted their efforts since the outbreak of this war, with respect for human rights as the cornerstone.

Very early on, numerous measures were taken of which details were communicated to the Office of the High Commissioner for Human Rights. Côte d'Ivoire opened itself up to all national and international human rights organizations wishing to investigate the human rights situation.

Out of concern for transparency, on 5 November 2002 the Government of Côte d'Ivoire communicated to the Security Council a request for the sending of a commission of inquiry.

This request, which was made in a hostile international media environment (many disillusioned Ivorians even spoke of a labyrinthine international plot against Côte d'Ivoire), has to date not met with any response. This attitude contrasts with the promptness with which the United Nations responded to the request for the sending of a mission following an approach by a Government other than that of Côte d'Ivoire. A response to Côte d'Ivoire's request would have made it possible to prevent the lack of preparation which the mission itself acknowledges (see paras. 2, 3 and 5 of the report). Despite everything, the Ivorian people expected a great deal from this mission.

Regrettably, the hope aroused by this new option was disappointed.

War is of itself a violation of human rights. Thus it is not the ideal setting for the exercise of these rights. However, the Government could not cover up the violations of human rights committed in the areas under its control. It decided

whatever the cost, to take the road of truth. It notes with sorrow, however, that the fact-finding mission of the High Commissioner for Human Rights did not take this demanding road of truth.

A reading of the report shows the ambiguity in the nature of the mission (I). It also reveals a lack of rigour (II) and bias on the part of its drafters (III).

I. The ambiguities in the nature of the mission

On 5 November 2002 the Government of Côte d'Ivoire, through the Minister for Human Rights, requested the sending of a commission of inquiry into the violations of human rights in Côte d'Ivoire.

At his meeting with the Deputy High Commissioner for Human Rights at the headquarters of the Office of the High Commissioner for Human Rights in Geneva on Friday, 20 December 2002, the Minister for Human Rights reiterated this request. Instead, the Secretary-General requested the High Commissioner for Human Rights to send a mission to compile accurate information on the violations of human rights and international humanitarian law in Côte d'Ivoire. The mission was in Côte d'Ivoire from 23 to 29 December 2002.

It was described as a fact-finding mission.

Determining the facts presupposes assuming that they contain some truth. Implicit in doing so is the identification of certain responsibilities. According to paragraph 7 of the report, the mission's aim was not "... to point the finger of accusation at anyone". Thus "its aim was to gather information that might help the Security Council understand what was taking place on the ground and help in the search for peace". Well and good! But is it truly possible to establish the facts without pointing a finger of accusation? Can facts be established without inferring responsibilities? It is this ambiguity in the concept of a fact-finding mission which explains why, by way of describing the working method, the report presents, rather, elements of a methodology. It is again this ambiguity which makes it possible to understand, ultimately, how the mission managed to do what it claimed it wished to avoid. For example:

- In paragraph 13, after citing a decision by the Supreme Court of Côte d'Ivoire, it concludes that this decision had the consequence of excluding a large part of the Ivorian population. This conclusion is clearly a value judgement, whereas the mission's task was only to present the facts. Moreover, in what way can a decision by a court ruling on the eligibility of candidates for the Presidency of the Republic have the effect of excluding part of the population? We invite the mission to explain this reference to us;
- In paragraph 12, "citizenship, nationality and the right to be elected to high office became linked". What enables the mission to assert this by way of a conclusion? Do assertions of this kind form part of its objectives?
- The mission compiled a number of items of testimony.

However, it clearly ignored the hundreds of such items copied to it by the Minister for Human Rights both in Abidjan and in Geneva. One thing or the other: either the mission, which is fond of emphasizing that it is not a commission of

inquiry, does not compile testimony, or if it does, the most elementary justice requires it to take into account all the testimony available.

- In paragraph 57, the mission states that it "compiled information to the effect that the death squads are made up of elements close to the Government, the Presidential Guard and a tribal militia of the President's ethnic group", and even says that "Names were provided".

II. The lack of rigour

The lack of rigour is characterized by imprecision, shallow analysis of the facts and inaccuracy.

A. Imprecision

There are many cases of this, and they undermine the mission's credibility. They relate to the sources and to the facts.

1. Sources

A number of references are made to information provided by "human rights organizations" (paras. 84, 89 and 153), but these are not named, although Amnesty International is cited at length.

This approach gives rise to the following questions:

- Does the mission doubt the reliability of the facts, and serious ones, reported by these organizations?
- Is the mission suggesting that these organizations lack credibility, given their allegiance to certain political parties?
- Lastly, do these organizations really exist?
- These questions are all the more justified in that the Minister for Human Rights has listed more than 30 human rights organizations with which he is in straightforward cooperation.

2. Alleged facts

For example, in paragraph 51 reference is made to three migrants from Burkina Faso, Yabré Sebré, Masse Haïdou and Masse Ali, who are said to have been executed. However, no information is given on the circumstances in which they were killed. Were they MPCI combatants? Why was it these particular people who were killed; are nationals of Burkina Faso being systematically executed in Côte d'Ivoire? Was the mission influenced by the myth of anti-Burkina Faso feeling among Ivorians, as developed in a memorandum* which was broadly disseminated by the Government of Burkina Faso in diplomatic circles.

* The Government of Côte d'Ivoire has responded to this memorandum; copies of the response are available from the Minister for Human Rights and in Côte d'Ivoire's diplomatic missions.

B. Shallow analysis of the facts

Showing little rigour in analysing the information received, the mission contented itself with making gratuitous assertions and drawing hasty conclusions.

1. Many gratuitous assertions

The mission makes assertions without providing the slightest proof of them, or even the beginnings of proof.

Thus:

- In paragraphs 98 and 99, the mission refers to acts of hatred and xenophobia, acts committed against communities of the north by "certain sectors of the Ivorian population" and messages of incitement to ethnic hatred allegedly disseminated over national radio and television. All these facts are put forward without any example or any source being given;
- In paragraph 94, the mission categorically asserts that detention and torture centres exist in the areas controlled by the Government, and refers to gendarmerie and police barracks and schools as probable locations. Where does the mission get the idea that these are probable locations of detention and torture? The mission, which did not visit the sites to verify the facts, has failed in its duty to investigate;
- In paragraph 111, the mission reports that the militants of the Rassemblement des républicains and the Union démocratique et populaire de la Côte d'Ivoire* are said to have encountered threats to the exercise of their freedom of expression and opinion, and that a number of them are alleged to have been abducted and executed. No facts are reported in support of these statements;
- In paragraph 118, the mission indicates that it has received from human rights advocates information on cases of theft, violence and looting perpetrated by the security forces against the inhabitants of shantytowns. Although, as it maintains, the mission visited the areas, it did not take the trouble to compile, for the purpose of confirming the acts cited above, information from the inhabitants, whom it nevertheless says that it met in December 2002, about sites destroyed since 20 September 2002.

All of these facts that are listed should have been verified with the government authorities. By failing to do so, the mission was remiss in its obligation to analyse the facts. It was thus not able to evaluate the information received rigorously.

2. Lack of rigour in analysing the information received

In evaluating the information received, the mission disregarded the rule any investigator must follow — even though the mission claims that it was not a mission of inquiry, while nevertheless behaving as such — of hearing all those in possession of knowledge and taking account of their version of the facts in order, by hearing all parties, to verify the accuracy of the facts.

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* See the comments made below.

There are a number of examples that lend support to this idea:

- In paragraph 84, the mission reports the statements of a human rights organization which had estimated the number of people arrested by the government forces at 150. It did not verify this information with the government authorities before publishing it. Moreover, regarding the number of prisoners taken by the rebels, the mission states: "It is believed, however, that they had 11 members of the gendarmerie in detention". The term "believed" used here suggests that nothing was verified, and that the mission is not sure about what it is saying. It is known that after occupying towns, particularly Bouaké, the rebels took prisoner several dozen gendarmes and members of the police forces who were not in a belligerent situation, as well as members of their families;

- In paragraph 85, the mission was unable to confirm, as it was able to do in the case of Sergeant Alain Guei, that five people had, according to it, been detained in the Intelligence Service, yet this police unit is located in Abidjan, where the mission stayed. It also does not give the source of its information regarding these alleged detainees;

- In paragraph 87, the mission states that "since the arrival of the French troops, there have reportedly been no summary executions of gendarmes in Bouaké". This information is puzzling, for how are the French soldiers able to control the situation when they are known to be stationed at the various front lines and at the exit from the town of Bouaké to the eastern corridor, on the Bouaké M'Bahiakro road at the Baptist School, not inside the town of Bouaké, still less at the various rebel bases.

In addition, the report indicates that MPCI is holding prisoners, but gives no indication of their number. The mission should have insisted that the rebels allow them to visit these prisoners and assess the conditions of their detention;

- In paragraph 114, the mission states that some party representatives are said to have stressed the fact that "persons who have openly criticized the authorities have been murdered". This is the most apposite example of the lack of rigour in evaluating the information received by the mission, in that the term "persons" used in the report clearly indicates that there is no longer an opposition in Côte d'Ivoire.

However, there are many examples of free expression of opinion and thought in various forms, for example the daily appearance of newspapers whose editorial policies are sometimes diametrically opposed; this freedom of opinion extends as far as the resignation of government ministers — and yet they have not been murdered. Once again, the mission did not pursue its investigations further;

- In paragraph 122, the mission's use of the phrase "are said to have" leaves the reality of the acts committed by the two rebel movements in the west (MPIGO and MJB) in doubt, whereas it is well known that the combatants of these two movements systematically engage in looting, destruction of homes and massacres of the population. These facts are confirmed not only by displaced persons from this region, but also by national and even foreign radio and television stations;

- In paragraph 124, the mission states that it received information from the national armed forces of Côte d'Ivoire, provided by the deputy of Blolequin, who is said to have informed them of cases of looting and desecration of a cemetery in that district. Although the deputy of Blolequin was cited by the armed forces as the source of the information, the mission did not see fit to contact him to obtain more information;

- In paragraph 134, the mission states that "there has not been concrete information of persons charged or brought to justice, although the mission was assured at the highest level that cases were being processed". This shows that once again, no investigation was conducted in order to establish the facts. What the mission should have done was to visit the examining magistrate's offices in the Military Tribunal or the Courts of First Instance in Abidjan, as it did in Daloa, to verify that these cases were under way and ascertain the state of progress.

In addition, it should also have visited the various jails and correctional facilities in order to verify whether these persons were indeed being held there.

C. Inaccuracies

The report as a whole mentions various facts that are inaccurate. Examples of this are abundant; reference will be made here to a few which leave doubt as to how serious the mission was in its work.

For example:

- In paragraph 4, the mission states that it met with various members of the Government, including the Minister for Human Rights, represented by the Minister of Commerce. Apart from the ambiguity of the term "met with", which does not indicate whether it was a working meeting, the Government wishes to make the clarification that when the United Nations mission visited Abidjan Mr. Patrick Achi, Minister of Economic Infrastructures and Government Spokesman, was representing the Minister for Human Rights in her absence.

However, the Government of Côte d'Ivoire has two ministries of commerce:

- One, known as the Ministry of Domestic Commerce, headed by Madam Odette Sauyet Likikouet, Deputy for Diégonéfla and member of the Front Populaire Ivoirien (FPI);

- The other, known as the Ministry of Foreign Commerce, headed by Mr. Amadou Soumahoro, Mayor of Séguéla and member of the Rassemblement des Républicains (RDR).

Lastly, the Government points out that in the absence of the Minister for Human Rights, the principal private secretary in her office sought in vain to have a working meeting with the United Nations "fact-finding mission".

- In paragraph 55, the mission states that before he was murdered, Dr. Dacoury Tabley had been held for two days by the Ivorian security forces for questioning. Where did the mission obtain this information, which is inaccurate? Had it taken the trouble to read the annexes to file passed on to it

by the Minister for Human Rights, it would have known that as matters stand, it is not established that Dr. Dacoury Tabley was detained by the security forces. This does not emerge from report No. 942 of the investigations department of the Abidjan gendarmerie brigade dated 11 November 2002;

- In paragraph 27, the report notes that there are 60,000 refugees in the reception areas in the north of the country towards the frontier with Liberia. What northern area is it referring to? The inaccuracy of this statement is obvious, in that the frontier with Liberia is not in the north of Côte d'Ivoire, but in the south-west.

Moreover, the report suggests that Korhogo, which is the largest town in the north of the country, is not part of the northern region of Côte d'Ivoire, since it is stated that out of the total number of 72,000 refugees in Côte d'Ivoire, 60,000 are in the north of the country while 12,000 are said to be in Abidjan, Man, Bouaké and Korhogo. Lastly, can one conclude that, following the departure from Côte d'Ivoire of 32,000 Liberian refugees out of the total of 72,000, there are still 60,000 whom UNHCR would like to move to the south?

- In paragraph 111, the mission states that it met "representatives of political groups in Côte d'Ivoire, particularly the Union démocratique et populaire de la Côte d'Ivoire". It should be pointed out that the exact title of the party of the late general Robert Guei (to which the report no doubt refers) is the Union pour la démocratie et pour la paix en Côte d'Ivoire (UDPCI). In view of this error(?), it may legitimately be wondered whether the mission did indeed meet members of this party, especially as this error(?) occurs a number of times in the report (twice in paragraph 111 and twice in paragraph 112);

- In paragraph 133, the report appears to give the impression that the Ministry for Human Rights was established after the outbreak of the conflict. In fact, this ministry is a result of the ministerial reshuffling of 5 August 2002. Moreover, respect for human rights has always been a concern of the Government, which before 5 August 2002 had established a human rights department within the Ministry of Justice, Public Freedoms and Human Rights;

- In paragraph 137, it is reported that there has been no follow-up to the file on the Yopougon massacre in October 2000. This idea is inaccurate and without any foundation.

Following the report by the United Nations which designated gendarmes as the alleged perpetrators of these acts, judicial proceedings were initiated against the gendarmes in question and resulted in a trial following which they were acquitted because their guilt could not be established. It should be emphasized that the witnesses summoned to the trial, who could have enabled the court to come to a decision refused to appear. It is thus not proper to refer to impunity in this case. Moreover, the head of State has called for the file to be reopened. To this end, three new examining magistrates' offices (the eighth, ninth and tenth) have been opened at the seat of the Abidjan Court of First Instance.

- In paragraph 145, the report gives the impression that part of the Ivorian population does not enjoy protection and that discrimination exists based on the nationality of origin. This idea in no way reflects the reality, and is tendentious, in that all citizens in Côte d'Ivoire are equal before the law. This

principle is, moreover, affirmed by the Constitution in article 2, "All human beings are born free and equal before the law".

All of these inaccuracies are revealing as to the biased nature of this report.

III. Biased nature of the Mission

When the Minister for Human Rights passed through Geneva on 19 and 20 December, she was promised an impartial mission in accordance with United Nations rules. The inescapable truth, however, is that this promise was not borne out. The Mission's bias shows through in various points in the report.

A. Unsettling expressions and terms

- Paragraph 8 refers to "the Government and its supporters", with the MPCI on the other side. Does this mean that the conflict concerns only the Government and its supporters rather than all Ivorians whose country is being attacked?

The attack is on Côte d'Ivoire.

To speak of the Government and its supporters is to lend credence to the theory that an unlawful government and its implacable supporters are resisting the liberators of Côte d'Ivoire. Need we remind the mission that all political parties in Côte d'Ivoire have condemned the aggressor? Are those other parties government supporters?

- In paragraph 48, the term "mutiny" is used to speak of the rebellion. Can anyone seriously believe that what was triggered on 19 September 2002 was a mutiny?

Mutiny is the act of revolting. To mutiny is to collectively and openly refuse to submit to the orders of the authorities to which one is subjugated.

Is planning an executing the cold-blooded murder of a Minister of the Republic and other high-level civilian and military authorities a refusal to submit to their orders?

Is raping women in keeping with military discipline?

Are the deserters leading the rebellion members of the regular forces of Côte d'Ivoire?

Are the mercenaries of MPCI, MPIGO and MJP in Bouaké and the western part of the country members of the Ivorian Army?

To speak of mutiny here is thus to side with the cause of the conflict and, thereby to seek to make the violence against the Ivorians more palatable.

Wherever the rebellion by MPCI and its offshoots (MPIGO and MJP) is clearly to blame for a serious human rights violation, the mission employs a terse style and innocuous headings. This writing style rapidly achieves its purpose in a fast-paced cybersociety where readers do not always take the time to mull over sentences — or where, more often than not, they pay attention to headings only.

Thus, while the mission chooses the term "death squads" (a term which immediately strikes the reader) to describe an accusation levelled against the Government, it chooses to refer to the recruitment of child soldiers by the rebels as "the treatment of children".

Surely, the heading "child soldiers" would have been much more expressive.

B. Causes of the conflict

1. Causes of the conflict cited by the mission

The report of the mission of the Office of the High Commissioner for Human Rights identifies four issues as being at the root of the current crisis in Côte d'Ivoire.

The mission cites, in succession, the following questions:

- National identity;
- The concept of "ivoirité";
- Rural land ownership; and
- The Constitution.

A closer look at these causes shows that they cannot, on principle, be regarded as acceptable justification for the crisis, and also that there is no substantive basis for them.

With regard to the first three causes, the allegations concern the difficult conditions for acquiring Ivorian nationality by non-nationals and the denial to foreigners of full property rights over rural land. As the crisis is supposed to be inter-Ivorian, the question of foreigners cannot constitute valid and acceptable justification.

As for the Constitution, which the report terms exclusionary, particularly its article 35, it was voted on in a referendum called for by all the political parties without exception.

The Constitution is therefore not supposed to create Ivorians, whereas it itself is the expression of their will.

Calling this Constitution into question purely out of political speculation cannot be recognized as a source of the current conflict in Côte d'Ivoire.

The various causes cited had no place in the report without accepting that the conflict is actually of foreign origin.

Unfortunately, however, the mission has not explored this avenue, although it is no longer contested, given the means and logistics developed by the rebels, that the crisis also — and above all — has foreign origins, which should be condemned under international instruments.

Now that these preliminary remarks have been made, these causes should be examined in depth in order to establish that they could not constitute serious justification of this conflict.

(a) The issue of nationality

Defined as "belonging to the population making up a State", Ivorian nationality is governed by Act No. 61-415 of 14 December 1961, amended in 1972.

The grievance concerning the nationality code is that the conditions for eligibility have been too rigorous since 1972, when the possibility of acquiring Ivorian nationality by declaration, in accordance with the provisions of articles 17 to 23 of the code, was withdrawn.

Even under this legislation, when a declaration was made by a non-national, the Government of Côte d'Ivoire had the power to accept or reject that declaration in accordance with the aforementioned article 23.

This was the sovereign expression of the State in the choice of non-nationals wishing to acquire Ivorian nationality.

Indeed, the principle is that in "international law, questions of nationality are currently considered to be the exclusive domain of States. Each one freely determines the conditions for granting its nationality; no other entity can do that in its place".[1]

The exclusive competence of the State and its absolute freedom to choose its nationality requirements have been sanctioned by international case law, particularly by the Permanent Court of International Justice in its advisory opinion of 7 February 1923 (Series b,4), and by the International Court of Justice in the Nottebohm case of 6 April 1955.

Since the reform of 1972, Côte d'Ivoire has freely determined the unique and equal conditions for acquiring Ivorian nationality. And these conditions have never sparked resentment or been contested by non-nationals residing in Côte d'Ivoire.

It simply comes down to a politicization of the question of nationality, which cannot constitute a valid cause of the current crisis.

Paragraph 11, a series of disparate ideas without any logical sequence or thread, contains some dangerous conflations. The mission espouses theories fabricated by the authors of the rebellion to justify their actions.

This document tends to highlight the role of national identity in the current crisis in Côte d'Ivoire. In this connection, the authors of the report single out the 1972 Act establishing a nationality code as the root cause of the genuine frustration felt by migrant families.

The question might therefore arise as to why the 1972 Act did not begin to take effect until 15 years later. Is there no truth to the alternative hypothesis that certain political figures sought to increase their following by cleverly exploiting historical facts and by thrusting onto the political scene migrants who, from the start, never had any intention of exercising any citizens' rights whatsoever in Côte d'Ivoire?[2]

[1] Bernard Audit, "Droit International Privé", Economica 1991, p. 726.

[2] In this connection, a survey of communities of Burkina Faso nationals residing in Ghana might show striking similarities between their position and that of Burkina Faso nationals in Côte d'Ivoire.

(b) Concept of "ivoirité"

The mission touts this as one of the major causes of the crisis in Côte d'Ivoire.

The report, however, contains no definition of this supposedly controversial concept.

"Ivoirité" is a concept that does not exist in either Ivorian legislation or in the Government's current programme.

If we go by the definition given by its originator, President Henry Konan Bedie, "'ivoirité', regardless of ethnic background, religion, region and race, is a promise made to all, even to foreigners".

"'Ivoirité' as a distinctive culture of the Ivorians, of all Ivorians without exception, is the antithesis of tribalism, ethnocentrism and racism".[3]

Without endorsing these views, what can be deduced from statements made by the originator of the term is that "ivoirité" is in no way a means of exclusion which could explain the crisis.

Moreover, the Linas-Marcoussis Agreement of 24 January 2003 does not cite "ivoirité" as a cause of the conflict.

(c) Rural land ownership

It is an *idée reçue* that foreign nationals are at a disadvantage under the land reform system in Côte d'Ivoire. In order to weigh this allegation, pre-reform legislation and the evolution of the reform should be considered.

(1) Positive law before the reform

Before the reform, the land ownership regime was based principally on the following legislation:

- Decree of 26 July 1932 reorganizing the land ownership system,
- Decree No. 64 of 16 April 1964 prohibiting private contracts on real property,
- Act No. 70-209 of 20 March 1970 establishing the finance law for the 1970 initiatives, and
- Decree No. 71-74 of 16 February 1971 concerning procedures for State-owned land and property ownership.

The content of this positive law on rural land is characterized by article 2 of Decree No. 71-74 of 16 February 1971, which reads: "rights concerning soil use, known as customary rights, are intended only for those exercising them and may not be transferred on any ground whatsoever. Nowhere in the Republic may such rights be assigned to anyone".

Under article 1 of that decree, the occupation of rural land is subject to the obtention of a provisional or final title of transfer issued by the Ministry of Agriculture, or to authorization to occupy it on a temporary or revocable basis.

[3] Racines-Revue Culturelle Africaine No. 3, June 1998, p. 87.

These provisions have two results:

- The Government alone is authorized to issue a deed of occupation. Title to such land must be issued after the lease is finalized. The final procedure is set out in article 3 of the aforesaid decree and includes a request, a government survey, the granting of authorization to occupy followed by a temporary lease, registration in the State's name and a record of how it will be utilized.

Hence, no customary authority or village chief could grant ownership of rural land to another person even if that person was Ivorian.

The transfer of property and the main real property operations must be notarized. This requirement of legal proof is contained in article 5 of the decree of 16 February 1971 and the finance law of 20 March 1970.

Can it be proved, by citing names, that foreigners who have legal title to land or have legally been assigned property rights have been divested of their rights?

- The land on which the plantations in question have been cultivated is customary land, which is therefore not registered and rightfully belongs to the State. The only right the village authorities had over it was the right of use. As specified in article 2 of the decree of 16 February 1971, no one can be assigned such rights anywhere in the territory of the Republic.

Any sale of such land is therefore a sale *a non domino* (a sale by someone who does not own the property), since the land belongs to the State.

The case law of Ivorian courts on this subject has been consistent. Thus, the Court of Appeal of Abidjan, in a decision of 5 November 1976 (Revue ivoirienne de droit No. 1, 2, p. 50, No. 4) held that an agreement regarding a plantation should be annulled and that, in any case, whether the property is for sale or being put up as collateral, the plantation should be returned and the amount paid for it should be reimbursed.

The same Court of Appeal, in a decision of 24 February 1978 (Revue ivoirienne de droit, 1982, No. 1-2, p. 51, No. 91) held that, where village chiefs exercise a right of enjoyment over land, that land may not be transferred or leased without government approval and, failing such authorization, the lease between the parties becomes null and void.

The Adzopé section of the Court, in judgement No. 74/86 of 16 May 1986 decided that: "unregistered rural land belongs to the State and if there is no registration procedure, the occupants of such land exercise nothing more than a mere right of temporary use, enabling them to harvest their crops and reap the benefit of their labour".

Hence, under the legislation in place prior to the reform, neither an Ivorian nor a foreigner was permitted to acquire customary land. It can thus be said that, even during the term of President Félix Houphouët-Boigny, the rule that "land belongs to the one who tills it" was never an element of Ivorian positive law.

(2) The post-reform situation

The purpose of the reform initiated by Act No. 98-750 of 23 December 1998, unanimously adopted by the National Assembly before the coup d'état, was to

increase the coherence of a diffuse legislative system that was creating complications.

It defines rural land and determines what constitutes it. Rural land includes land belonging to the State, land owned by public authorities and private individuals, unowned and provisionally owned land, and customary and State-owned land leased by the State to public authorities and private individuals.

The reform does not waive registration as a prerequisite for gaining access to property. It innovates a procedure for proving customary rights, a controversial issue among Ivorians from similar customary backgrounds.

The courts have often experienced serious difficulties in settling questions of customary property.

Act No. 98-750 of 23 December 1998 also governs the transfer and handing down of rural land.

As before, the Government plays a central role in such transactions. Hence, under article 15, any contract granting land registered in the name of the State is transferred by the Government at the express request of an assignor and does not constitute a violation of third-party rights. It specifies that provisional leases may not be transferred and prohibits direct assignment of the contract by the lessee or the sublessee.

Apart from this exception, rural property owners may dispose of their land freely. Rural landowners may thus conclude contracts with foreigners or Ivorians within the limits of article 1, for example, by reserving undeveloped property exclusively for Ivorians, whether Ivorian by origin or by naturalization.

Actually, the new system of Ivorian land ownership protects foreign landholders in good faith. It affords them protection from unscrupulous nationals who illegally sold or leased them land which they did not own.

In fact, a comparative study of legislation in the ECOWAS countries, particularly that of Burkina Faso, reveals identical clauses on reserving rural, and even urban, property exclusively for nationals.

Thus, for all of the foregoing reasons, landowner legislation in Côte d'Ivoire blends into a kind of permanence. This permanence remains in harmony with both the Ivorian and the African soul, which holds that land should be inalienable because "it belongs to the ancestors and to the generations to come, as well as, and perhaps more so than, to those now living"(1). Accordingly, the great Western and African jurists believe that the idea that an individual can be a landowner goes against deep-seated African sentiment(2).[4]

This explains the land ownership problems that can arise among Ivorians, for example, between the Abouré and the M'Batto in Côte d'Ivoire. There has been a dispute between these two ethnic groups for several years.

[4] "Les grands systèmes de Droit Contemporains", René David and Camille Jauffret-Spinosi, Dalloz, 1992, p. 449. David and Jauffret-Spinosi, op. cit., 0. 451, M'Baye, "Droit et Développement en Afrique Francophone de l'Ouest", Volume (A) "les aspects juridiques du développement de l'Economie", 1966, p. 212-165.

(d) Constitution

The Ivorian Constitution, particularly its article 35, is criticized for being exclusionary.

For example, the Mission refers to a decision by the Constitutional Chamber of the Supreme Court rejecting the Presidential candidacy of 14 persons.

In reading this decision, which the mission seems not to have done, it becomes apparent that article 35 was not the sole ground for rejecting all the above-mentioned candidates. Most of these candidates were rejected for other reasons having to do with their failure to fulfil eligibility requirements.

Indeed, out of 19 declarations of candidacy, 12 were rejected and two withdrew.

Regarding the rejections:

- Allassane Ouattara was eliminated for:
  - difference in his mother's names on the certified true copy of her birth certificate;
  - questionable certificate of nationality;
  - dubious morality;
  - for having claimed another nationality.
- Henri Konan Bedie was eliminated for:
  - failure to have a medical examination.
- Boa Amoikon Tiemele Edjampan was eliminated for:
  - late payment of fee.
- Emile Constant Bombet was eliminated for:
  - dubious morality.
- Faustin Leka was eliminated for:
  - failure to pay fee.
- Gaston Ouassenan Kone was eliminated for:
  - late payment of fee.
- Lanzeni Coulibaly was eliminated for:
  - incomplete file.
- Coulibaly Climanlo was eliminated for:
  - failure to resign from the Civil Service.
- Lamine Fadiga was eliminated for:
  - morality.
- Dramane Toure was eliminated for:
  - incomplete file.
- Paul Pepe was eliminated for:
  - incomplete file.
- Bamba Morifere was eliminated for:
  - failure to resign from the Civil Service.

Furthermore, recommendation No. 8 in paragraph 154 says that "every effo should be made to bring about a national consensus on the national constitutio keeping in mind the provisions of international human rights law". What do th mean by "consensus" when an overwhelming majority of 86 per cent of t population participated in the vote on the Ivorian Constitution? All political parti including the Rassemblement des Républicains (RDR), which is contesting it, call for a "yes" vote. The transparency of this referendum was never at issue.

Beyond that, exactly which international human rights norms is Constitution supposed to take into account?

The mission remains silent on this question. To our knowledge, a mo Constitution does not exist anywhere in the world. Each State has its Constitution.

In truth, this smacks of the rebels' and the mission's concern about conditions for eligibility for the Presidency of the Republic. In this connection, e country establishes its criteria, and writes its Constitution according to its o circumstances:

Algeria

Article 73

To be eligible to seek the office of President of the Republic, candidates mu

- Be of Algerian nationality by origin,
- Be of the Muslim religion,
- Be at least 40 years old on the date of the election,
- Be in full possession of their civil and political rights,
- Prove that their spouse is of Algerian nationality,
- For candidates born before July 1942, provide proof of their participatio the Revolution of 1 November 1954, and
- For candidates born after July 1942, provide proof that their parents were involved in acts hostile to the Revolution of 1 November 1954.

Benin

Article 44

Candidates for the office of President of the Republic must:

- Be of Beninese nationality from birth or for at least 10 years,
- Be of sound morality and great integrity,
- Be in possession of all their civil and political rights,
- Be at least 40 but not more than 70 years of age on the date the candida filed,
- Reside in the territory of the Republic of Benin at the time of the elections
- Enjoy a satisfactory state of physical and mental health, duly certified board of three doctors sworn and designated by the Constitutional Court.

Burkina Faso

Article 38

Candidates for the office of President of Burkina Faso must:

- Be born in Burkina Faso of parents who are themselves of Burkina Faso,
- Be at least 35 years of age by the date the candidacy is filed and meet the conditions required by law.

Gabon

Article 10

- All Gabonese of both sexes who possess their civil and political rights and are at least 40 and not more than 70 years of age are eligible to seek the office of President of the Republic.
- Any person having acquired Gabonese nationality may not be a candidate for President of the Republic. Only fourth-generation Gabonese, without interruption, are eligible to seek the Presidency.

Madagascar

Article 46

All candidates for the office of President of the Republic must:

- Be of Malagasy nationality;
- Be in possession of their civil and political rights;
- Be at least 40 years of age on the date the candidacy is filed.

An incumbent President of the Republic who wishes to be a candidate must resign on the eve of the electoral campaign.

Mali

Article 31

Candidates for the office of President of the Republic must:

- Be of native Malian nationality;
- Be in possession of all their civil and political rights.

Niger

Article 37

- Persons born in the Niger,
- Who are at least 40 years old and who possess civil and political rights are eligible for the Presidency of the Republic.

The law specifies the conditions of eligibility for the submission of candidatures.

Senegal

Article 28

Candidates for the office of President of the Republic must:

- Be exclusively of Senegalese nationality,
- Be in possession of their civil and political rights,
- Be at least 35 years of age.

Chad

Article 62

Chadians of either sex who meet the following conditions may put forward their candidacy for the office of President of the Republic:

- They must be of Chadian origin,
- They must be born of a father and mother of Chadian origin and have no nationality other than Chadian.

Tunisia

Article 40

Candidates for the office of President of the Republic must:

- Have no other nationality,
- Be of the Muslim religion,
- Have a Tunisian father, mother and paternal and maternal grandfathers of uninterrupted Tunisian nationality.
- Be at least 40 and not more than 70 years of age and enjoy all their civil and political rights.

Now that the content of these Constitutions has been set out, some remarks are in order:

It is a principle of international human rights law that differences do not constitute discrimination (European Court of Human Rights: Van Der Mussele case, judgment of 23 November 1983, Series A, Volume 70, para. 46).

Discrimination arises only when there is no objective and reasonable justification for distinguishing between individuals placed in analogous situations. The mission has not provided sufficient proof of this.

Moreover, according to case law (Rasmussen case, European Court of Human Rights, judgment of 28 November 1984, Series A, Volume 87, para. 40), one of the relevant factors in determining whether or not a difference in treatment is reasonable may be the existence of common ground between the laws of member States.

Thus, in the context of the above Constitutions, there is common ground among the laws of the States Members of the United Nations regarding conditions of eligibility for the Presidency. This common ground also extends to the Constitution

of Côte d'Ivoire, which cannot be called discriminatory without declaring all the other Constitutions discriminatory as well. Moreover, have such provisions in analogous Constitutions triggered wars in the other countries?

2. Forgotten or omitted causes

In paragraph 10, the Mission identifies what it considers to be human rights-related issues at the root of the conflict. However, on examination, it becomes clear that these issues are only indirectly related to human rights. The mission has forgotten about what might be called a real human rights issue at the root of the conflict:

(a) The financing of the rebellion

Today there is no longer anyone who seriously believes that the rebels financed their destabilizing action on their own.

- How can anyone imagine that soldiers supposedly being paid wages would be able to purchase weapons that a State like Côte d'Ivoire could not afford?
- Where is the money for the food, logistics and transport of these troops coming from?
- Who was kind enough to provide the satellite telephones the rebels are parading around with, and which even the best-paid Ivorian workers cannot afford?
- Where have they been obtaining the fuel for their vehicles for the past four months?
- When all is said and done, who is sponsoring the rebellion?

These have been gnawing questions since the outbreak of the Ivorian crisis. Why have the members of the United Nations mission, who were supposed to appear impartial and had the duty to investigate all the causes of the conflict, not found them disturbing?

The attempted coup d'état has been condemned by all organizations and countries!

How can the effects be condemned without investigating and condemning the cause, in this case, the financing?

Failure to do so is to doom the Ivorian conflict to continue.

The financing of a rebellion that sows crime in its wake can only be the work of organized crime. Could the United Nations mission have been unaware of this? Has it forgotten that General Assembly resolution 49/159 of 23 December 1994 stressed that organized crime is a serious threat to the development of States, the quality of life, and human rights and fundamental freedoms through the use of its financial power, and the violation and corruption of social, economic and political institutions?

Is there any weight to certain theories such as that of Yves Ekoue Amaïzo, who wrote in an article entitled "What is paralysing the Ivorian authorities?" in "Le Monde Diplomatique" in January 2003: "The competitiveness and transparency promoted by the International Monetary Fund (IMF) and the World Bank are hobbled by the capacity to influence, and sometimes, harm of certain private

financial oligarchies which no longer hesitate to hold Governments, both in the South and in the North, in a vice"?

Finally, why did the mission, which went to Bouaké, fail to question the rebels on their means of subsistence and the funding for their weapons?

(b) Outside interference

In the words of article 23 of the African Charter on Human and Peoples' Rights: "all peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States".

Paragraph 2 of that same article goes on to say: "For the purpose of strengthening peace, solidarity and friendly relations, States parties to the present Charter shall ensure that: ... their territories shall not be used as bases for subversive or terrorist activities against the people of another State party to the present Charter".

In this connection, it is surprising that it did not occur to the United Nations mission to consider the question of outside interference as a human rights issue at the root of the conflict. And yet, international conventions deem such interference a human rights violation.

How could a United Nations mission whose stated aim was to "gather information that might help the Security Council understand what was taking place on the ground and help in the search for peace" fail to consider outside interference?

How could the Security Council understand the situation on the ground if the mission did not attempt to provide it information? On this very point, Mr. Dominique Galouzeau de Villepin, Minister for Foreign Affairs of France, a country with which Côte d'Ivoire has defence agreements, said on 16 December 2002 in the newspaper "La Croix": "We denounce outside intervention, that is, any action taken from neighbouring States of Côte d'Ivoire, the delivery of weapons, or dispatch of personnel. And we will draw all the appropriate conclusions in dealing with it".

How could the mission have closed its eyes to this question when, on 12 February 2003, Mr. Kansteiner, Assistant Secretary of State for African Affairs, told members of the Committee on International Relations of the House of Representatives of the United States Congress: "While both Presidents deny [the facts, we know that a number of rebels came in] from Burkina Faso. Their organization, the level of coordination and planning and the weaponry available to the rebels all suggest a pattern of outside assistance"?

Despite all the proof, the mission did not find this to be a human rights-related issue at the root of the conflict. Does it think that this will help to promote peace?

C. Biased presentation of the parties

1. Unequal coverage

In accordance with its tacit methodology, the mission gives the various parties the opportunity to present their side of the story. Once again, imbalances demonstrate its bias:

- From paragraph 68, which comes under a sub-section concerning mass graves, onwards, Mr. Guillaume Soro's comments account for nine (9) paragraphs (68, 69, 70, 71, 72, 73, 74, 75 and 77). The mission did not accord the Government that much attention: aside from the habitual exchange of courtesies, there was not even the opportunity for a genuine working meeting. One might think that the report serves as a forum for the MPCI. Of the 15 paragraphs (68 to 82) which supposedly deal with the Bouaké mass grave, only four relate to what might be regarded as the purpose of the mission, the remainder being devoted to the defence of MPCI.

With regard to detentions and arrests, the report cites the names of five persons who were allegedly detained at the Intelligence Service (paragraph 85). Paradoxically, when the report refers to persons detained by MPCI, it does not mention their names.

During her mission to Geneva on 19 and 20 December 2002, however, the Minister for Human Rights submitted, in the form of annexes to the Government's solemn declaration, items of testimony containing the names of soldiers and gendarmes detained by the rebels.

Another copy of that document, accompanied by a CD-ROM containing enlightening images of blatant human rights violations committed by the rebels, was submitted to the mission in Abidjan by the principal private secretary in the Office of the Minister for Human Rights. Why such biased treatment? The members of the mission did not ask the rebels any specific questions about the issue.

Furthermore, if the members of the mission had read the testimony, they would have known that Mamadou Cissé, assistant to the RDR Mayor of the rebel-held town of Vavoua, whose arrest they declare to be arbitrary, has been accused by B.T.A. (witness number 01 in the aforementioned document) of having offered arms to members of the Burkina Faso community to enable them to participate in the conflict.

2. Presentation of the rebels in a good light

Deceptive means are often employed to present the rebels in a good light.

- Paragraph 35 contains the following strange sentence: "Notwithstanding the efforts of the leadership of MPCI, there was pilfering". To which efforts does this refer? The summary execution of the alleged pilferers?[5]

[5] A dispatch from Agence France Press dated 7 October 2002 describes the execution of a thief. That dispatch concluded as follows: "at the rebel assembly point, a man carrying bags and a fan was escorted by a soldier. Suddenly, shots rang out: the man was executed in cold blood. 'He was a thief', said a prisoner, whose face was covered in shrapnel fragments."

How can the report speak of efforts to prevent pilfering when it refers to people who open the prisons wherever they go and enlist some of the inmates to fight alongside them?

We were under the impression that prison was a means of combating impunity. How can a mission from the Office of the United Nations High Commissioner for Human Rights, aware that the international community has chosen to fight against impunity, refer to efforts made by a group that rides roughshod over that principle? The mission seems to justify its position by indicating that MPCI acted in that manner because it lacks administrative capacity. So why did that group decide to start a war? Was any thought given to the victims of the crimes perpetrated by the newly freed prisoners?

- In paragraph 52, which deals with the murders of a Minister, Emile Boga Doudou, and Colonels Loula Dagrou, Oblé Dally and Yodé, the mission suggests that those crimes might not have been committed by MPCI and attributes that doubt to the Government, thereby suggesting that another lead might exist in the search for the murderers. Perhaps the mission is saying that the Government regards itself as responsible for those events. In truth, however, at the very beginning of the crisis the President of the Republic clearly pointed to the rebels as the perpetrators of those murders.

- The mission chose to report statements made by certain unnamed human rights organizations which all downplay the rebels' crimes. In paragraph 50, a certain organization claims to know the precise number of executions allegedly committed in Government-controlled areas, namely 150.

But when it comes to summary executions committed by the rebels, it suddenly becomes impossible to give a figure. Moreover, the report states that the rebels carried out the majority of those executions at the beginning of the conflict.

That is an insult to the memory of the countless victims killed long after the conflict began, whose relatives' testimony is contained in the file that was submitted to the Office of the High Commissioner for Human Rights in Geneva and to the mission upon its arrival in Abidjan.

- In paragraph 84, a human rights organization (the same one?) estimated at 150 the number of people arrested by government forces in September and December 2002. Once again, it is stated that the number of people arrested by the rebels is not known.

- Paragraph 121 of the report clearly states that no act of destruction of public or private buildings has been observed in Bouaké.

That statement is not impartial and also demonstrates the lack of commitment with which the work was carried out. In fact, acts of destruction of public and private property have certainly taken place in Bouaké.

With respect to public property:

- Police Headquarters was burned and its roof was removed by the rebels on the first day of the conflict.

- The doors of the court offices have been broken and the seals removed from them.

- The offices of the Prefect and the Deputy Prefect and all police stations and university campuses have been looted and ransacked.

With respect to private property, a number of private houses have been looted by the rebels and vehicles belonging to private individuals have been stolen.

Many items of testimony gathered by the Minister for Human Rights from displaced persons in Bouaké confirm these facts. The clearest example is that of a businessman from Bouaké, Konan N'zi Kan Kouame, who had his home looted and over seventy (70) goods vans damaged.

- Paragraph 125 of the mission report states: "Since the arrival of the French forces at Bouaké, it has been observed that the MPCI combatants are making efforts to avoid acts of looting".

The above comments on paragraph 87 also apply in this case.

Furthermore, through its use of the phrase "it has been observed", the mission gives the impression that it witnessed at first hand the supposed efforts made by MPCI to avoid acts of looting, whereas in actual fact it spent only one day in Bouaké, in December 2002.

3. Presentation of the Government in a bad light

In general, when the mission relays the Government's explanations, it endeavours to state that it has no view as to their truthfulness (paragraph 64), as if to cast a veil of suspicion over the Ivorian authorities.

(a) Mass graves

- In paragraph 60, the mission describes the Monoko-Zohi mass grave, specifying that the area, which is under rebel control, is located in the western part of the country.

The mission draws no conclusions from the geographical location of the mass grave. Moreover, it does not refer to the comments made in the report and contained in the files which were submitted to it by the Minister for Human Rights in Abidjan and Geneva. The mission would certainly have been compelled to admit that, to reach Monoko-Zohi (Dania sub-prefecture) it was necessary to pass through Zaïbo, where the French forces are stationed. Could the French forces say whether they saw the Ivorian forces passing by? The mission was perfectly entitled to ask them. The purpose of the mission was to establish those facts.

(b) Allegations of abuse and threats

- Paragraph 66 of the report states: "The mission asked the Government military leaders whether anyone had been brought to justice because of excesses". The term "alleged" is absent at this point. Does the mission believe that the Government forces were guilty of excesses?

Which particular excess was the mission referring to when it made such an absolute condemnation, which fails to respect the presumption of innocence? Is the mission intimating that the Ivorian authorities are fostering impunity?

Moreover, it is doubtful that a government military leader would have provided such categorical information ex officio. Is employing the term "military

leader" without identifying that leader merely an attempt to give credit to testimony whose meaning is ambiguous?

- Paragraphs 107 and 108 describe the violence, pressure and death threats to which journalists in Côte d'Ivoire, particularly those close to the opposition parties, have been subjected and imply that those acts are being committed by the Ivorian security forces. However, the mission has been unable to prove that that was the case.

Furthermore, assuming that those acts were indeed committed by the Ivorian security forces, i.e. by government agents, how should we interpret the fact that, as the report rightly states, they also targeted two newspapers close to the ruling party (*Notre Voie* and *L'Actuel*)?

In addition, as "Reporters without Borders" did several months ago, the mission has bizarrely omitted to mention that, on 19 September, 29 September and 5 October 2002, the Ivorian television broadcasting centre in Abobo, Abidjan, was attacked and vandalized. Likewise, the broadcasting centres in Séguéla and Namgbo (located in the north of the country) and in Bouaké have also been attacked. At present, therefore, national radio and television are no longer broadcasting in rebel-controlled areas and the rebels are using what remains of the broadcasting centres to disseminate their messages and propaganda.

Are those omissions attributable to the fact that it is unthinkable to blame such acts of sabotage on the Government?

- Paragraph 112 of the report states that political assassinations have occurred since the beginning of the crisis and cites, inter alia, the death of General Robert Guei as a typical example. It should be pointed out that, since the circumstances surrounding his death are still not clear, it is unwise to assert that he was the victim of a political assassination.

(c) Destruction of shantytowns

The bias in the examination of the facts is also apparent in the tendentious and falsely compassionate interpretation of the destruction of the shantytowns.

It is true that shantytowns have been destroyed. It is also true that as part of a policy aiming at sustainable urban development the inhabitants of such areas were scheduled to be displaced and the settlements destroyed. But the process was moved forward for security reasons.

The mission takes the liberty of passing the following judgement on the Ivorian authorities: "This issue gives rise to great problems of conscience. It is hard to justify the deliberate destruction of buildings where human beings make their homes and live."

Those who condemn Côte d'Ivoire's treatment of that issue do not have a monopoly on emotions and compassion.

Does the mission wish to dispute the fact that those who attacked Côte d'Ivoire were from certain shantytowns? The destruction of those shantytowns was a matter of necessity. The mission should be asked the following question: which is more important, human life or material property? Ivorians believe that life is worth more than property.

Our accusers did not feel the same indignation when presented with the file containing accounts of the anguish of raped women and murder victims' relatives. Were they indignant at the fate of those who were driven from Bouaké?

The real problems lie in the lack of forewarning and issues relating to relocation. The Government has expressed its sympathy for the inhabitants of the shantytowns and several ministers have visited them. A relocation policy is envisaged and has been drawn up. Many of the inhabitants have been housed in Government-owned centres. So where is the lack of conscience?

Once again, our accusers do not have a monopoly on emotions. They would do better to concern themselves with ensuring that those inhabitants have sufficient resources to leave the shantytowns and reside in homes as luxurious as their own.

It is not a question of taking action to ensure that those people remain in the shantytowns. The Government was working on that policy when war broke out. Therefore, if our accusers could convince the rebels to lay down their arms, the shantytown problem would be solved once and for all.

(d) Major omissions

- In paragraphs 22 and 23, the mission points out that there is a substantial flow of internally displaced persons. However, it fails to mention the direction in which those displacements are taking place, i.e. from north to south.

We consider that information to be essential.

(e) The media

The report attempts, in an insidious fashion, to show that the President of the Republic acknowledges that these newspapers in question are inciting hatred. Where is the evidence to prove that the President's call for an end to attacks on foreigners was aimed at newspapers, in particular *Notre Voie*, *Le National* and *Fraternité Matin*?

At this stage of the proceedings, it is appropriate to make a number of remarks about the accusations levelled at the daily newspaper *Le National*, namely that it made racist comments against the Muslim community and homosexuals.

The mission gives the impression, shared by many Ivorians, that the human rights argument is an essential part of the war that has been imposed on Côte d'Ivoire and that the International Criminal Court is a fundamental mechanism to be used in that connection.

Le National, presented by the mission as a tribalistic, xenophobic and racist daily newspaper, is, along with several other newspapers, regarded as the mouthpiece of the ruling party. All accusations levelled at that newspaper are therefore also accusations levelled at the Government's party.

The mission insinuates that the newspaper espouses the ideology of the extreme-right. However, the distinguishing characteristic of the extreme-right, whose narrow-minded nationalism is certainly not desirable, is its discriminatory practices: it advocates the exclusion, and even the destruction, of so-called marginalized individuals, such as homosexuals. For that reason, a case against *Le*

National and certain members of the Ivorian Government who are regarded as it spokespersons should be brought before the International Criminal Court.

The report's assertion that *Le National* is known for its radical positions an xenophobic articles is expanded upon as follows: "This newspaper is a conduit fo racist comments against the Muslim community and homosexuals". Th superficiality of that remark can be illustrated by the fact that the editorial colum of *Le National* has never included action to combat homosexuality, a phenomeno that is relatively unknown in Côte d'Ivoire (in comparison to Europe and America).

D. The report's revelations

- In paragraph 145 *in fine*, the report says of Côte d'Ivoire, "It is a spectacula case of a prosperous country with legendary hospitality that now had t grapple with the immigrant sector of its population and their descendants, an with the political repercussions of their sympathies."

The report tells us that immigrants in Côte d'Ivoire have political sympathie What are these sympathies? Perhaps the mission should tell us. Is it insinuating tha foreigners have become involved in politics in Côte d'Ivoire? Which politica grouping has their involvement helped?

The mission appears to be saying that the war was waged for foreigners an certainly by some of those foreigners.

E. Those responsible for the "death squads"

1. Violation of the presumption of innocence

- From paragraph 55 onwards, mention is made of murders organized by deat squads and private militias.

The Government notes that crimes have been committed in the free areas.

In a televised statement on 8 November 2002, through its Minister for Huma Rights, the Government condemned the crimes and expressed its condolences to th bereaved families. On the same day, it held a working meeting with the Chief o General Staff, the Commander-in-Chief of the Gendarmerie and the Directo General of the National Police, together with their close collaborators, with a vie to strengthening security and encouraging the security and defence forces to see out and prosecute the perpetrators of those crimes. In the same statement, th Government said that the personal convictions of its members could not allow the to accept such crimes and again invited the international community to send commission of inquiry to Côte d'Ivoire.

According to the report, "The mission compiled information to the effect tha the death squads are made up of elements close to the Government [...] and a triba militia of the President's ethnic group. Names were provided."

Despite the attempt to conceal them in the midst of allegations of a genera nature, the serious nature of these references cannot be ignored.

There is no other way to interpret these remarks: the United Nations mission is attributing responsibility for the crimes committed by the "death squads" to the Government and President of the Republic of Côte d'Ivoire.

This conclusion is supported by the following:

- First, the reader should not be deceived by the use of the conditional in the French text [*serait*]. In any event, that grammatical form presents what is being said as an eventuality. The mission speaks of "information" compiled. It does not give the source, unlike in other parts of the report where it cites human rights organizations, political parties and rebels.

- In paragraph 59, however it says that the national armed forces of Côte d'Ivoire stated that the MCPI had drawn up blacklists of people to be executed, giving the impression that it is endorsing this piece of information and that it gives it more credit than the others. Here it does not provide its famous set clause: "In citing these parts of the paper, the mission does not take a position with regard to them (paragraph 41)."

Concerning responsibility for the death squads, despite the seriousness of the "information" it does not take the basic precaution of making the same reservation. This might be translated as: take everything the Government says with reservations but when the Government itself is in question, presume that it is true.

Furthermore, the term "*précisant*" [in the French text] after "*information*" reveals the intentions of the report's authors. Precision presumes there is certainty. It supposes that whatever is at issue exists. It is therefore not surprising that the United Nations mission is in possession of names. The mission, so anxious to combat impunity, does not take the trouble to transmit those names to the authorities to enable them to prosecute the criminals in question.

The mission is aware that proceedings have been brought against persons unknown, as attested by investigations department report No. 942 of 11 November 2002, which was included in the file transmitted to the Deputy High Commissioner in Geneva, on 20 December 2002, by the Minister for Human Rights.

Is it concerned with combating impunity or politically exploiting allegations by presenting them as information?

In reality, the only identifiable person, and therefore the perfect culprit, is the President of the Republic, not only as head of Government but also as a person belonging to an ethnic group that produced a tribal militia.

This is an insidious but undeniable violation of the presumption of innocence, all the more unacceptable because it comes from a body that is supposed to protect it. This principle is universally recognized and confirmed by article 9 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights.

The presumption of innocence is acknowledged to be applicable even at the preliminary stage of criminal proceedings. The jurisdictional bodies of the European Court of Human Rights have always upheld this principle in their case law.

For example, paragraphs 35 et seq. of the judgement of the European Court of Human Rights of 10 February 1995 in the Allenet de Ribemont case state the following: "*the scope of article 6 (2) is not limited to the eventuality mentioned by*

the Government. The Court held that there had been violations of this provision in the Minelli and Sekanina cases [...] although the national courts concerned had closed the proceedings in the first of those cases because the limitation period had expired and had acquitted the applicant in the second." It even found that it was applicable in other cases where the national courts had not had to make findings on guilt or innocence.[6]

Therefore, even at the pre-trial stage, the presumption of innocence must be respected.

The use of the conditional does not exclude the existence of a definite violation of the presumption of innocence. In the case x...v. Austria, the European Commission on Human Rights stated so in the following terms: "taken separately, the words 'according to the findings of the inquiry the baby was, in all probability, killed by his grandmother, aged 68 [*aurait selon toute probabilité, été tué*] are close to an affirmation of the petitioner's guilt, and thus are open to criticism. A more neutral formula could have met the need to inform the public."

The United Nations mission could not argue that it had merely reproduced suspicions since, here again, as stated by J. A. Frowein in a commentary to the case Petra Kruise v. Switzerland and also by the European Commission on Human Rights:[7] "*... an expression of suspicion may have an influence at the trial stage, if such expression has the effect of unleashing a press campaign or influencing the judges.*"[8]

In this case the United Nations report did indeed unleash a press campaign premonitions of which can be seen in the interview with the President of Burkina Faso. The daily newspapers "La Croix" and "Le Monde" chose their guilty party on the basis of the report.

The report also seeks, implicitly, to justify judicial proceedings and influence the judges who will be hearing the cases, as the High Commissioner for Human Rights has continually been stating that those responsible for the abuses will be prosecuted in the International Criminal Court.

All things considered, there has clearly been a violation of the presumption of innocence in this case.

In reality, this accusation is one more piece of evidence of the international campaign against Côte d'Ivoire, which seeks to legitimize the taking of power by force of arms by presenting the victims as the executioners.

Regrettably, the International Criminal Court, the repository of so many hopes, can be regarded as a weapon of war on the same basis as tanks and Kalashnikov rifles, serving an uprising that is being funded by persons as yet unknown.

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[6] European Court of Human Rights, Adolf judgement of 26 March 1982; Lutz, Englert and Nölkenbockhoff judgements of 25 August 1987.

[7] Petition No. 9077/80, decision of 6 October 1981; D.R., 26; pp. 213-214. Petition No. 7986/77, decision of 3 October 1978.

[8] Cited by Dean Spielman, "Procès équitable et présomption d'innocence", Revue Trimestrielle des Droits de l'Homme, 1999, p. 669.

2. A few remarks about the charges levelled against the Government

Despite the absence of proof supporting the allegations concerning the death squads, a few remarks are called for concerning the charges levelled against the President of the Republic and the Government.

(a) Lack of motive

Unless a person's mental faculties are impaired, there is no crime without a motive. The motive is the reason that has caused an individual to commit an offence.

What would be the motives of the Government of Côte d'Ivoire for committing such crimes? Threats, revenge, jealousy?

A brief consideration of the personality of those killed reveals how pointless these charges are:

- Emile Tehe, chairman of the Mouvement Populaire Ivoirien, murdered in a cowardly attack on 2 November 2002, was in no way a danger to the Government. Many Ivorians had never really heard of him until he was killed.
- Rady Philippe Mohamed, an economic operator, was hardly a problem for the Government. The head of the Ivorian State is not a businessman and has continually told the business community that he is not competing with it. What would be the point of killing this prosperous tradesman?
- Dr. Benoît Dacoury-Tabley, whose detention for two days by the Ivorian security forces, has not been backed up by evidence, was not a threat to the Government.

Did he possess weapons, was he a military strategist? No evidence has been provided which would explain why he specifically, and no other members of his family, should be targeted. The members of the Dacoury-Tabley family are so well aware of this that they issued a statement, read out by Philippe Henri Dacoury-Tabley, to the effect that the real perpetrators of their brother's death were those who have declared this war.

- Are Yêrêfê Camara, Souleymane Coulibaly and Diomandé Soualiho a danger to the Government? If so, in what way?

For all these crimes, is it admissible to attribute the motive of revenge to the highest-ranking Ivorian authorities?

If they are considered to be planning revenge in acting this way, it must be concluded that all those suspected of involvement in the rebellion as either perpetrators or participants would be systematically executed. In that case, how can it be explained that proceedings have been opened in courts of investigation against persons suspected of being members of the rebellion and having participated in attacks against State security?

Since 14 October 2002, against the background of the war currently taking place:

- Twenty-three persons have been indicted in the Eighth Examining Magistrate's Office, Court of Abidjan, on charges of undermining State authority, participation in an armed group and conspiracy.

- Twenty-five persons have been indicted in the Tenth Examining Magistra Office. The United Nations mission has been given a list containing the na of all these persons.

Why would a State that summarily and secretly executes its oppon continue to organize judicial proceedings against them?

Why would such a Government choose to be civilized towards some and br towards others?

(b) Who stands to benefit from the crimes?

A sensible Government, even the most Machiavellian, does not act in a that is of no benefit to it. In this conflict, the Government of Côte d'Ivoire has op for peace and has made many sacrifices in order to sit down at the same table as rebels who, it will be recalled, were solemnly condemned by the United Nat Security Council on 31 October 2002. Its conduct is dictated by the choice it made: clearly, such crimes are of no benefit to it.

It will be noted that, each time the situation is favourable to peace or to Government in power, a crime involving public figures or their relatives occurs:

- The death of Dr. Benoît Dacoury-Tabley occurred on 8 November 20 following the signing, at Lomé, Togo, of an agreement between the rebels the Government establishing respect for constitutional legality, institutions territorial integrity and before the signing of a second agreement on modali for disarming the rebels which was to bring the war to an end.

What more could a legitimate government hope for even if it is thought to solely concerned with staying in power?

Can it reasonably be thought that the Government could sponsor the murde the brother of one of the rebel chiefs at that point in time?

It may be concluded that this crime is of benefit to everyone but the Ivo authorities.

Moreover, the rebels took that opportunity to suspend negotiations.

In its communiqué, which was, curiously, ignored by the international pr the Dacoury-Tabley family stated that it did not wish the death of its son to exploited for political purposes and used as a pretext to stop the negotiations.

- The death of actor Yêrêfê Camara, known as "H", occurred on 2 Febr 2003, following a historic demonstration of support for the Government wh brought together millions of people, including several foreigners, in partic Europeans, Lebanese and members of West African population groups.

For the first time, the international media were obliged to recognize immense and impressive support that existed for the Government and the Presi of the Republic.

The agenda of hatred being propagated against Côte d'Ivoire had been de blow. Can it be said that, at that specific point in time, it would be of any benef the Government to sponsor the murder of "H", a famous actor, knowing that could tarnish its image abroad?

Even the most unintelligent dictatorship would not do so.

This crime was perpetrated in an effort to make people forget the huge demonstration of popular support for the regime which had just taken place.

Hence it can be of no benefit to anyone but the enemies of the current Government.

In view of the foregoing, numerous Ivorians fear that, following the reservations entered to the Linas-Marcoussis Agreement by the American Congress, the death squads will strike again, in order to discredit the Ivorian regime and distract the international community's attention from condemning attempts to take power by force of arms.

- If the Government is behind these crimes, how can it be explained that trade-union leader Mahan Gahe, a fervent defender of constitutional legality whose work is favourable to the current regime, escaped an attempt on his life on the night of Tuesday 11 to Wednesday 12 February 2003. Individuals in military uniform and bearing weapons burst into his home at Anyama. He owes his life to his home alarm system, which drove the killers off.

(c) Some compelling facts

The Ivorian Government has been the subject of continual criticism. If it is behind the death squads, it has to be acknowledged that, unless it is thought to be completely lacking in intelligence, it is a very poor criminal indeed.

The death squads we have observed in recent history have in general been characterized by their discretion, which is an essential requirement for them to be effective. The circumstances of these crimes raise questions:

- The body of Dr. Dacoury-Tabley was found in a crowded area, as was the body of Emile Tehe, which was found on the northern highway.
- The body of Yéréfé Camara, known as "H", was found by RDR activists at 5 a.m. in a working-class neighbourhood where many RDR activists are said to live.

In the light of these circumstances, the impression clearly emerges that these crimes were committed in order that the bodies would be seen by as many people as possible. In other words, publicity seems to be part of the killers' strategy, if not their very goal.

A Government with any intelligence whatsoever would not display its victims in this way, knowing that this could be to its disadvantage.

Conclusion

In his observations concerning a previous United Nations commission of inquiry into the events of October and December 2000 in Côte d'Ivoire, Professor René Degni-Segui[9] concluded as follows : "ultimately, the Commission's biased and Manichaean approach leads it, not to seek the truth, the purpose of this inquiry, but rather to defend a cause, that of a political party. Hence it raises more problems than

[9] Former United Nations Special Rapporteur for Rwanda.

it resolves. Rather than helping us forward, the Commission's report is a step backwards in the process of unearthing the truth because of its incomplete and biased nature."

This conclusion remains perfectly relevant with regard to the fact-finding report of the mission that has just visited Côte d'Ivoire. Côte d'Ivoire notes with regret that the mission has, with this report, sanctioned the argument of force as a fait accompli, to the detriment of the requirements of democracy and human rights.

It is to be feared that the representatives of the United Nations, in continuing to pursue this approach, will quite simply cause people gradually to reject the Organization, which would be a disaster for humanity.

The mission has noted that numerous Ivorians have faith in the United Nations.

In view of the foregoing, when the commission of inquiry that our country has long been demanding finally comes, will it find faith in Côte d'Ivoire?

Done at Abidjan, 17 February 2003

For the Government of the Republic of Côte d'Ivoire

Victorine Wodié
Minister for Human Rights

Appendix

The report of the United Nations emergency human rights mission contains two enormous untruths, in paragraph 13:

• First untruth:

Mention is made of the new Constitution adopted in 2002. In fact the new Constitution of Côte d'Ivoire was adopted by referendum on 23 July 2000 and promulgated on 1 August 2000. It is entitled:

Act No. 2000-513 establishing the Constitution of the Republic of Côte d'Ivoire

• Second untruth:

The United Nations report indicates that the latest presidential elections, which brought President Gbagbo to power, were held in 2002, with all the insinuations inherent in that date.

It should be strongly emphasized that the recent presidential elections were organized by the military junta headed by General Robert Guei, in 2000 and not 2002. During those elections, M. Laurent Gbagbo, who was not a member of the government, was an opposition candidate, on the same basis as the candidates of the other opposition parties. Thus he could not logically be subject to the constraints of constitutional law while at the same time manipulating it in order to exclude other candidates.

United Nations S/2003/339

Security Council

Distr.: General
19 March 2003
English
Original: Arabic

Identical letters dated 17 March 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith the daily report for 17 March 2003 on the activities of the inspection teams of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) in Iraq (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Aldouri**
Permanent Representative

03-28786 (E) 240303 240303

Annex to the identical letters dated 17 March 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council

Activities of the UNMOVIC and IAEA inspection teams in Iraq

Inspection activities on 17 March 2003

I. UNMOVIC joint inspection team in Baghdad

The team left the Canal Hotel in Baghdad at 9 a.m. and travelled to the site of an anti-aircraft unit located in the Al-'Adl quarter of Baghdad. The team asked questions about the number of tagged missiles and examined damaged missiles. Upon completion of its mission, which lasted 45 minutes, the team returned to the Canal Hotel.

II. UNMOVIC missile inspection team

(a) A first group left the Canal Hotel in Baghdad at 8.30 a.m. and travelled to the site of the Dhat al-Sawari Technical Battalion, where it observed the destruction of two Al Samoud 2 missiles and five warheads. Upon completion of its mission, which lasted three hours, the group returned to the Canal Hotel.

(b) The second group left the Canal Hotel at 8.30 a.m. and travelled to the site of the Ibn al-Haytham factory, which is part of the Al-Karamah Company. The group photographed the fragments of the Al-Hussein missiles that had been destroyed in 1991 and, after completing its mission, which lasted 3 hours and 45 minutes, returned to the Canal Hotel.

(c) The third group departed the Canal Hotel at 8.30 a.m. for the site of the Al-Karamah State Company in the Waziriya district, where it supervised the deletion of electronic files related to the Al Samoud 2 missile, collected and burnt the missile plans and inspected the building of the engineering department. Upon completion of its assignment, which lasted one and a half hours, the group returned to the Canal Hotel

III. UNMOVIC inspection team (biological)

The team left the Canal Hotel at 8.30 a.m. and travelled to the site of the privately owned Tikrit Dairy Products Company in the city of Tikrit, where it asked questions about the company, its owners, the types of bacteria used in the manufacture of the dairy products and the tests carried out on the finished products. Upon completion of its mission, which lasted two hours, the team returned to the Canal Hotel.

IV. UNMOVIC inspection team (chemical)

The team left the Canal Hotel at 8.45 a.m. and travelled to the site of the Ibn Sina State Company, affiliated with the Military Industrialization Corporation (MIC), where it inspected all the company's facilities and employed an X-ray machine to identify metals. Upon completion of its mission, which lasted four hours, the team returned to the Canal Hotel.

V. UNMOVIC joint inspection team in Mosul

The team left the Nineveh Palace Hotel at 9 a.m. and travelled to the University of Mosul and then to the headquarters of the Iraqi National Union of Students (Mosul branch), where it interviewed a number of officials and inspected the building housing the Union's offices. Upon completion of its mission, which lasted one hour, the team returned to the Nineveh Palace Hotel.

VI. Mirage aircraft

At 10.15 a.m., a Mirage-4 reconnaissance aircraft penetrated Iraqi airspace and overflew various regions of the country for a period of one and a half hours. The aircraft departed Iraqi airspace at 11.45 a.m.

VII. Interview

UNMOVIC requested to meet with an Iraqi expert in a Baghdad hotel. The National Surveillance Department encouraged the expert in question to meet with the inspectors and informed him of the venue and time that had been agreed. The meeting was held.

United Nations S/2003/340

Security Council

Distr.: General
24 March 2003

Original: English

Note by the President of the Security Council

Following consultations among the members of the Security Council, they have decided, in order to give more time to the individuals, companies and States wishing to send to the Secretariat their reactions to the findings of the last report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo (S/2002/1146), to extend the deadlines set out in paragraph 11 of Security Council resolution 1457 (2003) of 24 January 2003. Those individuals, companies and States named in the Panel's last report are invited to send their reactions to the Secretariat no later than 31 May 2003, in order for these reactions to be published no later than 20 June 2003.

03-28758 (E) 240303

United Nations S/2003/341

Security Council

Distr.: General
19 March 2003
English
Original: French

Letter dated 19 March 2003 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to the question of Western Sahara, in particular the activities of my Personal Envoy, Mr. James A. Baker III, pursuant to Security Council resolution 1463 (2003) of 30 January 2003. By that resolution, the Council decided to extend the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 31 March 2003 in order to give the parties time to consider the proposal presented to them by my Personal Envoy, and requested me to provide a report on the situation by 17 March 2003.

As you are aware, just prior to the adoption by the Council of resolution 1463 (2003), my Personal Envoy undertook his latest round of consultations with the parties and neighbouring countries during his visit to the region between 14 and 17 January, where he presented and explained to them a proposal for a political solution of the conflict in Western Sahara providing for self-determination, as required by the Council in its resolution 1429 (2002) of 30 July 2002. Mr. Baker submitted his proposal, entitled "Peace plan for self-determination for the people of Western Sahara" to King Mohammed VI of Morocco on 14 January 2003, to President Abdelaziz Bouteflika of Algeria on 15 January 2003, and to the Secretary-General of the Frente POLISARIO, Mr. Mohamed Abdelaziz, and President Maaouya Ould Sid' Ahmed Taya of Mauritania on 16 January 2003.

Members of the Council should by now be acquainted with my Personal Envoy's proposal, which was informally circulated to them in early March.

When presenting his proposal to the parties and neighbouring countries, my Personal Envoy indicated to them that their views on it should be made available to him by early March, in order to give him sufficient time to assess them and provide me with his views on possible ways to move the process forward in Western Sahara. To date, not all the parties have provided their views on the proposal of my Personal Envoy.

In order to allow additional time for all the parties and neighbouring countries to submit their replies to my Personal Envoy, and to give him sufficient time to assess the parties' responses to his proposal, I propose to defer the submission of my report to the Security Council until 19 May 2003. I should also like to propose that the Council consider authorizing a technical extension of the mandate of MINURSO for a further period of two months, until 31 May 2003.

I should be grateful if you would bring this matter to the attention of the members of the Council.

(*Signed*) Kofi A. **Annan**

03-28764 (E) 190303 190303

United Nations S/2003/342

Security Council

Distr.: General
20 March 2003
English
Original: French

Letter dated 19 March 2003 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit herewith the text of a letter dated 19 March 2003 from the Director General of the International Atomic Energy Agency (see annex).

I should be grateful if you would have the text of this letter circulated as a Security Council document.

(*Signed*) Kofi A. **Annan**

03-28852 (E) 200303 200303

Annex

Letter dated 19 March 2003 from the Director General of the International Atomic Energy Agency addressed to the President of the Security Council

[Original: English]

Please find attached the Agency's work programme for the discharge of its mandate pursuant to paragraph 7 of Security Council resolution 1284 (1999).

I would appreciate it if you would arrange to circulate this communication as a document of the Security Council.

(*Signed*) Mohamed **ElBaradei**

Enclosure

Work programme of the International Atomic Energy Agency in Iraq pursuant to Security Council resolution 1284 (1999)

In paragraph 7 of resolution 1284 (1999), the Security Council decided that the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA), "not later than 60 days after they have both started work in Iraq, will each draw up, for approval by the Council, a work programme for the discharge of their mandates, which will include both the implementation of the reinforced system of ongoing monitoring and verification, and the key remaining disarmament tasks to be completed by Iraq pursuant to its obligations to comply with the disarmament requirements of resolution 687 (1991) and other related resolutions, which constitute the governing standard of Iraqi compliance". The Security Council further decided "that what was required of Iraq for the implementation of each task should be clearly defined and precise".

The IAEA considers that it started work as from 27 January 2003, the date the IAEA submitted the update required of it pursuant to paragraph 5 of Security Council resolution 1441 (2002). Accordingly, the IAEA hereby submits its work programme for the discharge of its mandate under the relevant Security Council resolutions.

Objectives of IAEA verification

The objective of IAEA verification is to assess Iraq's nuclear activities with a view to providing assurances to the international community of Iraq's compliance with its disarmament obligations. The basic tool for achieving that objective is observation and analysis through on-site inspection and technical measures, including environmental and material sampling, surveillance and remote monitoring, and overall analysis and assessment combining data derived during inspections and from all other sources.

In fulfilling its responsibilities under Security Council resolution 687 (1991) and other related resolutions, the IAEA has two specific mandates:

- Disarmament: in accordance with resolutions 687 (1991) and 707 (1991), mapping out of the extent of Iraq's past nuclear and nuclear-related activities, ascertaining whether there are any prohibited activities or items in Iraq, and destroying, removing or rendering harmless any such items; and, thereafter,
- Ongoing monitoring and verification: verifying on a continuous basis Iraq's compliance with its obligations under the relevant Security Council resolutions, in accordance with the IAEA's Plan for Ongoing Monitoring and Verification (the OMV Plan) approved by the Council in resolution 715 (1991).

While the implementation of these two mandates is intended to be sequential, inspections are, as they are for IAEA verification in general, essential for the achievement of both.

In fact, many of the inspection techniques and procedures employed by the IAEA in its disarmament activities (i.e., those designed to detect and dismantle prohibited equipment, materials and activities) and its monitoring activities (those

designed to provide continuing assurance of the absence of prohibited equipment, materials and activities) are essentially the same. Among those measures are the continuous systematic analysis and assessment of all information available to the IAEA from its inspection activities, Iraqi declarations and clarifications, and information provided by other States.

Status of Iraq's nuclear-related capabilities as at December 1998

At the time inspections were brought to a halt in December 1998, the IAEA had been able to draw a coherent picture of Iraq's past nuclear weapons programme, and to dismantle what was known of that programme. As reported to the Council (see S/1997/779, S/1998/927 and S/1999/127), the IAEA had concluded with respect to Iraq's past nuclear programme that:

(a) There were no indications to suggest that Iraq had been successful in its attempt to produce nuclear weapons.

(b) All nuclear material of significance to Iraq's nuclear weapons programme was verified and fully accounted for, and all nuclear-weapons-usable nuclear material (plutonium and high enriched uranium) was removed from Iraq.

(c) Iraq had successfully concentrated uranium from its own ore and produced industrial quantities of feed material (UCl_4) for electromagnetic isotopic separation (EMIS). There were no indications that the production of feed material for centrifuge enrichment (UF_6) went beyond laboratory level.

(d) Iraq had been at, or close to, the threshold of success in such areas as the production of high enriched uranium through the EMIS process and the production and pilot cascading of single-cylinder sub-critical gas centrifuge machines. However, there were no indications to suggest that Iraq had produced more than a few grams of nuclear-weapons-usable nuclear material through its indigenous processes.

(e) Iraq had explored several other enrichment routes, including gaseous diffusion, chemical enrichment and laser enrichment without achieving any significant progress.

(f) Iraq had made major progress in the area of weaponization, but still had significant hurdles to overcome before being able to complete the fabrication of a first nuclear implosion device.

(g) There were no indications that there remained in Iraq any physical capability for the production of amounts of nuclear-weapons-usable nuclear material of any practical significance.

(h) There were no indications of significant discrepancies between the technically coherent picture which had evolved of Iraq's past programme and the information contained in the "Full, final and complete declaration" submitted by Iraq to the IAEA, pursuant to resolution 707 (1991), in 1996, and supplemented in 1998.

As at December 1998, there were no unresolved disarmament issues in the nuclear area, although there were a number of questions and concerns about Iraq's past nuclear programme, the clarification of which by Iraq would have reduced the

uncertainty in the completeness of the IAEA's knowledge and understanding, including, in particular, the uncertainty about the progress made in weapons designed and centrifuge development due to the lack of relevant documentation. As stated in earlier reports, the questions and concerns remaining as at December 1998 are not an impediment to the full implementation of the IAEA's OMV Plan and their existence has already been factored into the Plan.

Because of the suspension of the IAEA's Security Council mandated verification activities in Iraq between 16 December 1998 and 27 November 2002, the key — and only — current issue of disarmament relevance with respect to Iraq's nuclear activities is whether Iraq revived or attempted to revive its defunct nuclear weapons programme over that time.

IAEA activities since the resumption of inspections

On 7 December 2002, Iraq submitted to the IAEA its "Currently accurate full and complete declaration" as requested by the Council in resolution 1441 (2002). In that document, Iraq declared that, "No activities of any substance related to the former Iraqi nuclear programme were carried out during and beyond April 1991. All nuclear programme activities were practically terminated and abandoned during April 1991 and only reports of previous accomplishments and new missions (non-proscribed) were issued later". As reported in the IAEA's update report of 27 January 2003, and confirmed in the subsequent statements of the Director General before the Security Council on 14 February and 7 March 2003, the IAEA has found to date no evidence or plausible indication of the revival of a nuclear weapons programme in Iraq.

As indicated above, there were no unresolved disarmament issues as at December 1998, although the absence of the inspectors from Iraq for the four following years gave rise to the need to re-establish knowledge about the possibility of nuclear-related activities in Iraq.

To achieve that, the IAEA focused first on re-establishing rapidly its knowledge of Iraq's nuclear capabilities, ensuring that nuclear activities at known key facilities had not been resumed, verifying the location of nuclear material and relevant non-nuclear material and equipment, and identifying the current workplaces of former key Iraqi personnel. The focus then shifted to identifying what, if any, activities of relevance had been conducted by Iraq over the last four years, in particular in areas identified by States as being of concern and those identified by the IAEA on the basis of its own analysis, such as changes in site infrastructures observed through satellite imagery and reported attempts by Iraq to import nuclear material and to revive centrifuge enrichment activities.

The main areas where substantive progress has been made are:

- *Infrastructure*: the IAEA has been able to provide assurance of the absence of indications of resumed nuclear activities in buildings that had been identified through the use of satellite imagery as having been reconstructed or newly erected since 1998, and of the absence of any indication of nuclear-related prohibited activities at any inspected sites.
- *Nuclear material*: the IAEA has been able to confirm that there has been no diversion of the nuclear material stored under IAEA seal; it has also been able

to investigate reports of attempted imports by Iraq of uranium since 1990, and to ascertain that these specific allegations were unfounded. However, the IAEA will continue to follow up any additional evidence that may emerge relevant to efforts by Iraq to import nuclear material.

- *Uranium enrichment by centrifuge*: the IAEA considers that it is unlikely that the aluminium tubes Iraq attempted to import were for use in centrifuge enrichment. However, the issue will continue to be scrutinized and investigated by the IAEA.

The IAEA work programme

The nature and content of the work programme are based on an understanding of Iraq's past achievements and of its current capabilities that could support nuclear or nuclear-related activities. The work programme nevertheless also anticipates actions that might need to be taken in the event of the discovery of new information giving rise to concerns about the resumption by Iraq of its nuclear programme.

Key remaining tasks

For the IAEA to resolve the key issue of whether Iraq had revived or attempted to revive its nuclear weapons programme between 1998 and 2002, there are a number of key tasks that need to be implemented by Iraq, as identified below. Although Iraq has initiated work on many of these tasks, Iraq should:

- Provide a complete description of all technical activities that may be related to (or interpreted as being related to) nuclear weapons components research and development and production, and uranium conversion and enrichment developments, in particular through ensuring access to associated sites and the provision of relevant samples.
- Provide access to all documents (e.g., progress reports, exchanges between governmental and operational organizations, minutes of meetings, computer files) on activities that could be interpreted as being related to nuclear activities, and allow the implementation of measures with respect to such documents that would allow proper forensic analysis, on-site or remotely (e.g., removal, copying).
- Provide the names and whereabouts, including current workplaces and positions, of all individuals requested by the IAEA, and grant full access to Iraqi officials and other personnel for purposes of interviewing, inside and outside of Iraq, in accordance with IAEA modalities.
- Provide a complete description of the evolution of its industrial infrastructure since 1998, with the provision of decrees and official documents as well as access to all sites.
- Explain and document procurement attempts and offers, solicited and unsolicited, that may be related to the possible development of Iraq's nuclear-related capabilities.
- Provide a full description of its current (post-1998) procurement system, whether within or outside the mechanisms established in resolutions 986 (1995) and 1409 (2002).

- Amend the Republican decree promulgated by Iraq on 4 February 2003 forbidding the import and manufacture of biological, chemical and nuclear weapons and enact comprehensive legislation and associated administrative arrangements that would secure the enforcement of all prohibitions associated with resolutions 687 (1991) and 707 (1991), and other relevant resolutions, as well as the IAEA's OMV Plan, as required in that Plan.

Assuming that these tasks will have been completed by Iraq, and barring unforeseen circumstances, the IAEA should be able, within two to three months, to provide the Security Council with an objective and thorough assessment of whether Iraq has revived or attempted to revive its nuclear weapons programme.

It is important to emphasize that the verification process always has some degree of uncertainty, and cannot provide absolute guarantees regarding the absence of small-scale nuclear activities, such as simulations on personal computers or laboratory work by a few scientists. Iraq's direct acquisition of weapons-usable nuclear material would also present a severe technical challenge to verification and great reliance must be placed on international controls.

Nevertheless, an intrusive inspection system such as that which the IAEA implements in Iraq can minimize the risk of prohibited activities going undetected, and deter, through the risk of early detection, the revival of a nuclear weapons programme. Therefore, it is important, particularly in the light of Iraq's past record of cooperation, to continue to evaluate Iraq's capabilities as part of equally intrusive long-term monitoring and verification in order to provide the international community with ongoing and timely assurances.

Ongoing monitoring and verification

The basis of the IAEA's ongoing monitoring and verification system remains the plan approved by the Security Council through resolution 715 (1991). As foreseen in 1991, and as implemented through December 1998, ongoing monitoring and verification will entail: comprehensive and regular reporting by Iraq on its activities, as well as on its exports and imports; unconditional and immediate access for unannounced inspections at any site deemed necessary by the IAEA, regardless of whether the site has been previously inspected; the conduct of location-specific and wide-area environmental monitoring, including the collection of various types of samples; real-time monitoring for the detection of radiation signatures; and the introduction of new technologies and methods of verification.

Ongoing monitoring and verification will be reinforced taking into account resolution 1441 (2002), which grants the Agency additional authority that may be exercised in the context of the implementation of the OMV Plan, particularly in requiring broader information on personnel and non-weapons-related nuclear programmes, and with respect to interviews, that would improve the efficiency of its monitoring activities.

While often associated with the investigation process, technical meetings with and interviews of Iraqi personnel will remain a key tool for ongoing monitoring and verification. Drawing on the reinforced rights set out in resolution 1441 (2002), the IAEA intends to make continued use of such measures, in particular private interviews with Iraqi personnel in accordance with the IAEA's preferred modalities and locations.

The IAEA is also expanding its capabilities to monitor imports by and exports to Iraq. In this regard, the IAEA intends to hire more customs and procurement experts to review, process and follow up the voluminous data acquired by the IAEA in the course of implementing its responsibilities under Security Council resolution 1409 (2002).

The IAEA is also planning on expanding the number of inspectors and technicians in the field as well as analysts and support staff at IAEA headquarters in Vienna.

The expansion of the IAEA's capability to do near-real-time monitoring of dual-use equipment and related activities is scheduled to take place as soon as feasible. In addition, several other components of wide-area environmental monitoring aimed at identifying fingerprints left by nuclear material and nuclear-related activities will be implemented.

With a view to preparing for field activities and, when necessary, monitoring movements in and around sites to be inspected, the IAEA is planning to also make use of aerial surveillance from all available platforms, including U2s, Mirage IVs, Antonovs and drones.

Should the IAEA be able to implement fully its reinforced ongoing monitoring and verification, and assuming full and active cooperation by Iraq, the IAEA would be able to provide the Security Council with continuous credible assurances of Iraq's compliance with its obligations under the relevant Security Council resolutions.

United Nations S/2003/343

Security Council

Distr.: General
20 March 2003

Original: English

Letter dated 19 March 2003 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of the letter from His Highness Sheikh Hamad bin Khalifa Al-Thani, Emir of the State of Qatar, in his capacity as Chairman of the Ninth Islamic Summit Conference, addressed to Your Excellency.

I should be grateful if you could have the text of the present letter and its annex circulated as an official document of the Security Council.

(*Signed*) Nassir Abdullaziz **Al-Nasser**
Ambassador
Permanent Representative

03-28953 (E) 250303 250303

Annex to the letter dated 19 March 2003 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General

[Original: Arabic]

The growing fears raised by the prospect of an outbreak of war in Iraq, which could aggravate the situation in a region that continues to be plagued by the abuses perpetrated by the Israeli occupier in the Palestinian territories, ongoing violations of United Nations resolutions by the Israeli forces and the sufferings of the Palestinian people, were the principal reason for the convening of an extraordinary session of the Summit of States members of the Organization of the Islamic Conference on 5 March 2000 at Doha.

In view of my responsibilities as Chairman of the Islamic Summit Conference, I felt that it was incumbent on me to inform you of the decisions taken at the Summit so that you might bring them to the attention of the members of the Security Council, who could then take our position into account when considering the aforementioned questions. Participants at the extraordinary session reaffirmed that the diplomatic and peaceful efforts being made with a view to the elimination of weapons of mass destruction must be given a chance, categorically rejected the principle of a war against Iraq and stressed that Iraq must apply the relevant resolutions of the Security Council.

With regard to the Palestinian question, the leaders of Islamic States called upon the United Nations and the Security Council to assume their responsibilities. compel Israel to end its ongoing aggression, ensure necessary protection for the Palestinian people, allow that people to exercise its legitimate and inalienable national rights, foremost of which is the right to establish an independent State with its capital in the Holy City of Jerusalem, and ensure the implementation of United Nations resolutions, including Security Council 242 (1967) and 338 (1973).

(*Signed*) Hamad bin Khalifa **Al-Thani**
Emir of the State of Qatar
Chairman of the Ninth Islamic Summit Conference